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ABSTRACT

As part of a series of lesson plans compiled by Phi Alpha Delta, this collection presents a lesson plan on current issues for each month of the school year. Intended for high school and middle school with adaptations for elementary school, the lessons cover the Americans with Disabilities Act in relation to accommodations for students with disabilities, the analysis of 30-second political advertisements, freedom of speech as it applies to rock and roll songs, hate crimes in Germany, term limitations for the United States Congress, reform of political lobbying, minority rights, non-violent dispute resolution, drunk driving, and the ban on homosexuals in the military. Each of the lesson plans provide a lesson description, objectives, key concepts and vocabulary, detailed steps for implementing the lesson, questions for class discussion, and suggestions for additional activities, such as inviting resource persons and drafting letters to legislators. The lessons also provide handouts of relevant legislation, court cases, and survey forms. The lesson on minority rights in Germany offers for comparison the United States Bill of Rights and the Basic Law for the Federal Republic of Germany. (JD)

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The Lesson Plan of the Month

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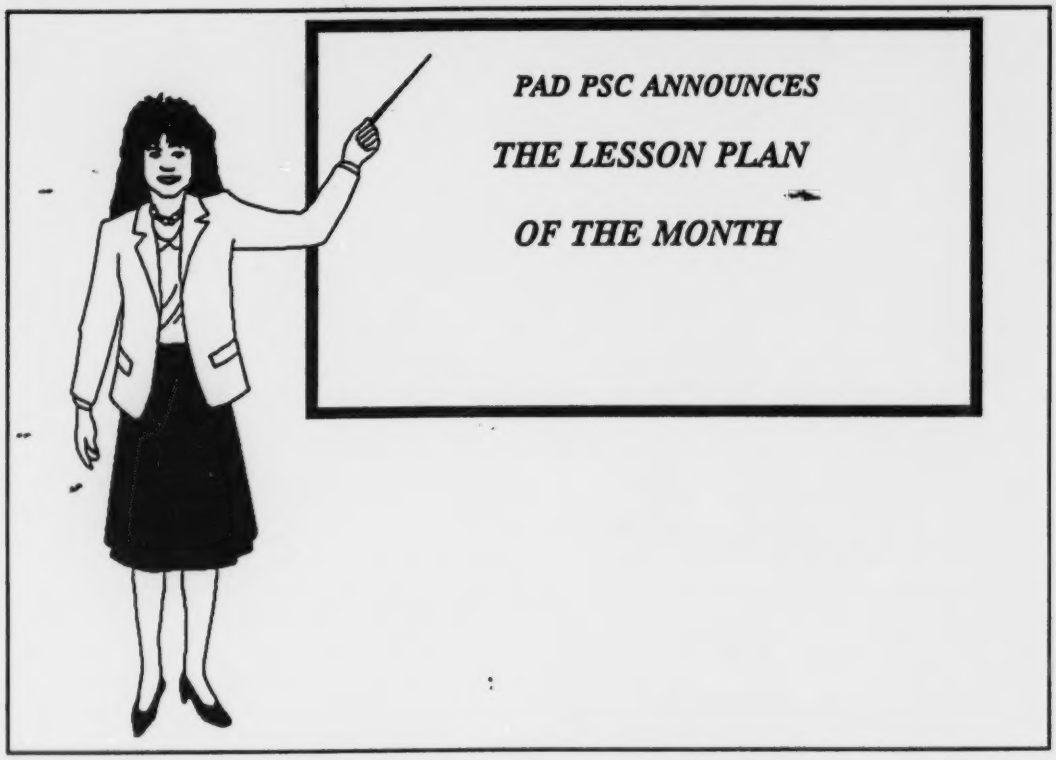

AUGUST

BARRIER AWARENESS

*PAD PSC * 1511 K Street, NW * Suite 611 * Washington, DC * 202-638-2898*

BARRIER AWARE

I. LESSON DESCRIPTION

Students will read and discuss facts about disabilities. Then they will rate local public accommodations as to whether they are barrier free. Finally they will study the **"Americans with Disabilities Act"** and, working in small groups, apply the law to hypothetical situations.

II. OBJECTIVES

1. Students will understand key provisions of the **"Americans with Disabilities Act".**

2. Students will evaluate hypothetical cases that raise issues of reasonable accommodation.

3. Students will become more aware of and sensitive to the problems of persons with a disability.

III. KEY CONCEPTS AND VOCABULARY

Barrier Awareness
public accommodation
HIV virus
reasonable accommodation
visual impairment

IV. STEPS

1. Distribute the vocabulary/concept list to the class. Go over it unless the teacher accomplished this prior to your visit.

2. Distribute Handout #1 to students. Draw their attention to a few key facts. Discuss.

3. Distribute Handout #2 to the class. Ask the students to complete the form after visiting a public accommodation such as a grocery store, bank or restaurant and return the form at the next class. Discuss the students' findings.

4. Divide the class into seven groups by having students count from one to seven. Tell all students who share the same number to assemble in a common area. Distribute Handout #3 entitled, **"Americans with Disabilities Act"** to the groups. Give them time to read and discuss the Act. Distribute Handout #4 to students. Ask each group to discuss the employer's dilemma in the

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hypothetical that corresponds to their group number and decide what is a reasonable accommodation. Have each group select a recorder to take notes and a reporter to share the group's conclusions with the class.

V. GENERAL DISCUSSION

1. Have each group report how they decided the cases and why. See if the entire class agrees.

VI. ADDITIONAL ACTIVITIES

1. Invite local special education teachers, school principals, industry personnel managers and architects to class to discuss persons with disabilities at school, home, work and play.

2. Divide your class into four or five groups. Blindfold one group, have the second group put cotton or ear plugs in their ears. Mute the third group, inhibit the ambulatory ability of the fourth group and leave the fifth group normal. The fifth group is optional. Conduct the class. Do not have students go around school in their artificially disabled condition as it may insult individuals with actual disabilities. Ask each group to continue the experiment at home at night. Warn students to be particularly careful and avoid hurting themselves. After conducting this exercise for one day or longer have each student write an essay describing his/her experiences. Discuss.

VII. RELEVANT LAWS

1. **Americans with Disabilities Act.** See Handout #3.

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HANDOUT #1 - ADA, STATISTICS/FACTS

More than one of every five Americans aged 15 and over have some type of disability, with women having a higher disability rate than men, according to a U.S. Census Bureau study. Difficulty walking was the most common problem reported, followed by a problem lifting things.

* 37,304,000 Americans aged 15 and over, 20.6 percent of all people in that age group, have difficulty performing one or more basic physical activities.

* About 13.5 million people, 7.5 percent, have a severe disability -- defined as unable to perform activities such as walking, lifting, hearing, or reading, or only with the help of another person. The percentage is based on the number of people with at least one disability, although many have multiple disabilities.

* 14.1 percent of people between 16 and 64 and 58.5 percent of people over 65 have disabilities.

* Women have a higher overall rate of disabilities (23.2 percent) than do men (17.7 percent), mainly because women outnumber men in the elderly age groups.

* The overall rate of disability is 20.2 percent for whites, 24.9 percent for blacks, and 19.2 percent for Hispanic people.

* Of people who are 16-64, about 18.2 million (12 percent) have a disability that affects their work. Of these people, 8 million were prevented from working by their disability.

* 19.2 million people have a problem walking a quarter-mile and 7.9 million cannot make the walk. Nearly 40 percent of people who are 65 and over and 6 percent between 16 and 64 would find the walk taxing.

* 65 to 75 percent of us will become disabled simply by living to our full life expectancy.

* Out of 36 million disabled Americans, 15 million are of working age. Only 5 million have jobs and of the 10 million who don't, 60 percent of them have been on disability unemployment for so long that the U.S. Dept. of Labor doesn't include them in the ranks of the unemployed.

* One of every 12 federal dollars goes either to a disabled person or to a disability program.

* For every dollar spent on rehabilitate disabled persons for employment, 10 or more dollars are returned into our economy.

* Disability touches nearly one out of every 2 adult Americans.

* In 1981, 10,330,252 cases of asthma allergies were reported in the United States.

* The incident rate of cystic fibrosis in newborns in one in 2,000 births. It is also estimated (1981 are the latest figures) that between 20,000 and 23,000 children the United States have cystic fibrosis.

* 1 to 2 percent of the population has some kind of seizure disorder.

* 80,152 cases of diabetes in people under the age of 17 were reported in 1981 in the United States.

* 1 in every 600 children in the United States has diabetes.

* Nationwide, approximately 700,000 children and adults have cerebral palsy.

* Spina Bifida is a birth defect condition that occurs in 1.5 out of 1,000 births nationwide.

* 50,000 new cases of head injury occur each year. Of those 50,000 individuals a year who survive a head injury, most are under the age of 30.

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HANDOUT #2 - SURVEY

Site Visited: _____

___ Fast Food Restaurant ___ Full Service Restaurant ___ Movie Theater
___ Bank ___ Grocery Store ___ Department Store
___ Museum ___ Other specify:

Answer the following questions about the site by circling the answer.

1. Is accessible parking (sign plus 13 ft. wide space) provided nearby? yes (+2) no

2. If yes, where is accessible parking?

   on the street in facility parking lot/garage in public parking lot/garage

3. Are there curb cuts on the sidewalk? n/a(+2) yes(+2) no

4. Is the path to the entrance smooth and at least 36 inches wide? yes(+2) no

5. Could all potential customers use the main entrance? (ie: someone in a wheelchair) yes(+4) no

6. If no, is there an alternate accessible entrance? yes(+2) no

7. Where is the alternative, accessible entrance?

   close to main entrance side entrance rear of building

8. Was sign posted at the main entrance specifying the location of an alternate entrance? yes(+1) no

9. Can the accessible entrance be used without assistance, e.g.,ringing doorbell, summoning staff? yes (+ 1) no

10. Entrance to site was:

    easily achieved (+4) achieved with difficulty (+2) achieved with staff assistance

    not achieved

11. Note any barriers to entering site:

    threshold higher than 1/2" door(s) too narrow door(s) too heavy

    other - specify:

12. Comments:

13. Total points obtained by site: _____

    Grade A (12-14) B (8-10) C (4-6) D(0-2)

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HANDOUT #3
SUMMARY OF IMPORTANT PARTS OF THE ADA

A public accommodation may not discriminate against a person with a disability by refusing service or denying participation in an activity. To achieve the goal of equal participation, service, goods and activities must be provided in the most integrated setting possible. Individuals with disabilities cannot be required to accept separate or special services.

General Rule

A covered entity may not discriminate against a qualified individual with a disability in any employment practice. The employer must make a reasonable accommodation that will allow the individual to perform the job, unless it causes an undue hardship for the employer.

What is a Covered Entity?

* Private Employers
* State and Local Governments
* Employment Agencies
* Labor Organizations
* Labor-Management Communities

All employers with 25 or more employees must comply with the act after July 26, 1992; employers with 15 to 24 employees must comply after July 26, 1994. Employers with fewer than 15 employees are not covered entities.

Reasonable Accommodations

Any reasonable changes or adjustments to a job or work environment that permit a qualified applicant or employee with a disability to participate in the job application process, to perform essential functions of the job or to enjoy benefits and privileges of employment equal to those enjoyed by other employees are considered reasonable accommodations.

Examples of reasonable accommodations include:

* Making the work place readily accessible to and usable by people with disabilities;
* Providing or modifying equipment or devices;
* Job restructuring;
* Modifying work schedules;
* Reassigning to a vacant position;
* Providing readers or interpreters; and
* Adjusting or modifying examinations, training materials or policies.

Undue Hardship

Undue hardship means an action would be unduly costly, disruptive, extensive or would fundamentally alter the nature or operation of the business. The following factors should be considered in determining if a reasonable accommodation is an undue hardship:

* The nature and cost of the accommodation;
* The type of operation of the covered entity;
* The employer's size and overall financial resources; and
* The impact of the accommodation on the employer's operation.

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HANDOUT #4

1. Tanya is a student during the day and can only work at night. She has a visual impairment that requires bright light to see. She applies for a job as a waitress in a nightclub. The nightclub keeps its lighting dim to provide intimacy and ambience. How should the employer respond if Tanya requests bright lighting in the club as an accommodation?

2. An employer learns from co-workers that one of her employees, Jim, who is an alcoholic, has been drinking both before and after work. The employee is not impaired on the job. Jim has received treatment for alcoholism before which was covered by his employer's insurance. Could the employer fire the Jim?

3. An employer extends an offer of a nurse position to Terry who, the employer later learns, is infected with the HIV Virus. Terry has experience in several areas of hospital work, but wants to work in the emergency room. May the employer refuse to hire Terry?

4. An employer has a small staff of filing clerks. To save money, the employer asks filing clerk to handle some of the phone calls that come into the office. A deaf person, Sarah, applies for and is hired in a filing clerk position, but requests that her phone responsibility be shifted to someone else. Must the employer do so if it would be inconvenient for other employees to pick up the slack?

5. An employer requires off-site training of all its employees. The closest training center is inaccessible to an employee, David, who is in a wheelchair. David could go to a different site, but it is important that all employees be trained together. Selecting a different site for all employees to visit would cost the employer over $5,000. What should the employer do?

6. An employee, Andrew, has a history of treatment for severe depression. The employee's job requires a lot of contact with the public. Andrew's physician reports to his employer that his condition requires Andrew to be insulated from stressful situations on the job. Andrew requests reassignment to a position involving less contact with the public, or in the alternative a reduced work schedule to receive care for depression. The employer needs a full time person to meet the public since the business is open from 9-5. Should the employer accommodate Andrew? If so, how?

7. Walton is a paraplegic. He is also head coach of his son's little league team. The little league has a rule that no wheelchairs are allowed on the field because the players may run into it and get hurt. Walton asks for equal participation and specifically for permission to go onto the baseball field to coach at third base. The league is afraid players will run into a wheelchair on the field and be injured. Must the little league allow him to coach on the field like the others?

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VOCABULARY LIST

Barrier Awareness	term indicating an understanding of the barriers that exist for individuals with disabilities in employment, education, housing, transportation and public accommodations
HIV Virus	the virus that causes acquired immune deficiency syndrome (AIDS)
public accommodation	place operated by a private person or group that effects interstate commerce, such as a restaurant, bar, grocer, store, bus terminal, theater or bank
reasonable accommodation	equitable, fitting, judicious, suitable, unextravagant, unextreme readjustment or change
visual impairment	some loss of sight; partially sighted or blind

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SUGGESTED STRATEGIES FOR ELEMENTARY TEACHERS

ADAPTATIONS: BARRIER AWARENESS (The completion of this lesson will require more than one class setting.)

1. Modify objectives to read.

   - Students will analyze key provisions of the "Americans With Disabilities Act."
   - Students will role-play situations that raise issues of reasonable accommodation.
   - Students will develop a sensitivity to the problems of persons with a disability.

2. Add the following words to the section entitled **KEY CONCEPTS AND VOCABULARY.** Present entire list to the students developing understanding of vocabulary and concepts.

   ♦ rehabilities ♦ Seizure ♦ Cystic Fibrosis ♦ Spina Bifida ♦ Paraplegic

3. Read the book, The Physically Disabled by Connie Baron, or a book of your choice, to the students. Engage students in a discussion of its contents. Ask questions to check for understanding.

4. Present to students a few key facts from HANDOUT #1.

5. Distribute HANDOUT #2 and discuss the meaning of its contents. Take students on field trip to a nearby grocery store and Fast Food Restaurant. Assign one half of the students the task of surveying the grocery store and the other half the task of surveying the Fast Food Restaurant. Engage students in a discussion of their findings. Have them compare and contrast their results.

6. Guide students in their discussion of HANDOUT #3.

7. Divide students into five (5) groups. Instruct each group to prepare a role-play depicting the following scenarios from HANDOUT #4:

   - Group 1 - Scenario #1
   - Group 2 - Scenario #3
   - Group 3 - Scenario #4
   - Group 4 - Scenario #5
   - Group 5 - Scenario #7

   (Other scenarios may be substituted) Engage students in a discussion of the solution to each scenario.

8. Have students create a four (4) page book illustrating their understanding of the problems of persons with a disability. Students can share their books with their classmates as well as with other classes in the school.

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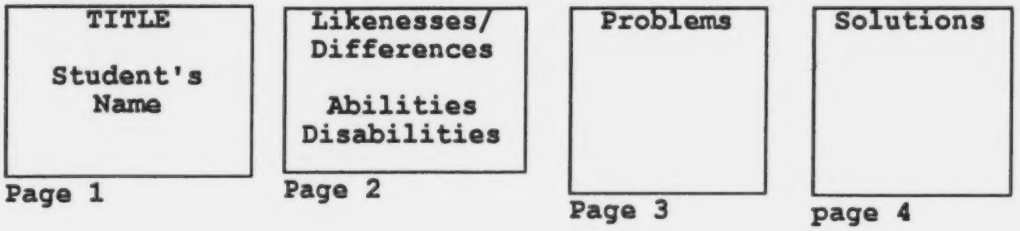
EXAMPLE: Fold a piece of 8" x 10" or 12" x 18" piece of manila drawing paper in half. Let students utilize both sides of each half, thus creating a four (4) page book.



9. Modify the section entitled **ADDITIONAL ACTIVITIES** as follows:

A. Retain #1

B. Retain #2 with:

- To help students understand the problems of persons with impaired hearing, show students a film or video, leaving out the sound. After viewing , ask students what they think the film was about. Then have students watch the film again with the sound on. Explain how the sound helped everyone understand the plot of the film. Inform students that person with impaired hearing finds it difficult to communicate and understand in a hearing world.

- Let students perform such tasks as picking up a piece of paper from the floor, tying their shoes or picking up a pencil, while wearing mittens. Have them describe the difficulties they experienced.

SUGGESTED LITERATURE

These books depict abilities of disabled person.

- Asletine, Lorraine; Mueller, Evelyn and Tait, Nancy, I'm Deaf and It's Okay, Whitman, 1986
- Baron, Connie, The Physically Disabled, Crestwood House, 1988
- Bergman, Thomas, We Laugh, We Love, We Cry, Gareth Stevens, 1989
- Casely, Judith, Harry and Willy and Carrothead, Greenwillow, 1991
- Charlip, Remy and Miller, Mary Beth, Handktalk Birthday, Four Winds, 1987
- Litchfield, Ada A., A Cane in Her Hand, Whitman 1977
- Martin, Jr., Bill and John Archambault, Knots on a Counting Rope, Henry Holt, 1987
- Rosenberg, Maxine B., My Friend Leslie, Lothrop, Lee, and Shepard, 1983
- Smith, Elizabeth Simpson, A Society Dog Goes to School, Morrow, Jr. Books, 1988

SEPTEMBER

POLITICAL DECISION IN 30 SECONDS

Hi! This month's lesson concerns how to analyze a 30-second political ad. We decided to move it up a month so that you would have plenty of time to use it before the election. Next comes "Rock and Roll and Censorship." Let us know how we're doing.

*PAD PSC * 1511 K Street, NW * Suite 611 * Washington, DC * 202-638-2898*

POLITICAL DECISION IN 30 SECONDS?
A FRAMEWORK FOR ANALYZING CANDIDATE ADS

I. LESSON DESCRIPTION

Students will discuss the extent of candidate image manipulation during elections. Students will apply a framework for analyzing a 30 second video ad to several sample ads. Students will develop guidelines for producing responsible television ads. Students will write television commercials for real or hypothetical candidates.

II. OBJECTIVES

1. Students will understand the ways in which candidate images can be manipulated through television ads.

2. Students will apply a framework for analyzing commercials to specific ads.

3. Students will develop guidelines for responsible political ads.

III. KEY CONCEPTS AND VOCABULARY

Frame
Image
Compare and Contrast Ads
Attack Ads
Issue Ads
Props
Manipulation
Theme
Candidate Promotion Ads
Video Background/Setting
Inflection

IV. STEPS

1. Distribute the vocabulary/concept list to the class. Go over it unless the teacher has accomplished this prior to your visit.

2. Distribute Handout #1 to your students. Discuss. Ask students how much of the footage they see of candidates is somehow "staged". Inform students that there are 550 frames of video in a 30 second spot. Discuss the opportunities for image manipulation. See Handout #2.

3. Have students tape individual political television commercials to share with the class or select and tape them yourself.

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4. Share several of these ads with your class, playing them straight through without stopping.

5. Next select four ads; one attack ad, one compare and contrast ad, one issue ad, and one candidate promotion ad, if possible. Share these with your class. Pause each ad at each point where the image changes or there is an edit. Note and discuss when any sound effects begin, end or change. Note and discuss ad type, clothes, music, backgrounds etc.

6. Distribute Handout #2 to your class. (Note: This could become a homework assignment if you do not have access to a class VCR.) Discuss. Divide your class into four groups. Have each group assemble in a common area. Ask each group to complete the form and the questions in Handout #2. Provide each group with the opportunity to review their ad if possible. Have each group report their findings and conclusions. Discuss.

7. Divide your class into six groups. Have each group develop a list of items that should be included in a proposed "Agreement for Responsible Political Ads". Have each group report its list to the entire class. Have the class vote on a list of recommendations for such an agreement. Example: "I agree to avoid using negative pictures such as those of homeless children or burning buildings with my opponents pictured before, during or after them." Send your recommendations to the major political parties and candidates. Ask for a response.

V. GENERAL DISCUSSION

1. Cable television has helped fragment the body politic by providing channels to reinforce narrow points of view.

2. Unlimited spending on elections with market control of the prices, places access to public office only in the hands of the well financed.

3. Reforms are needed if we are to stop our elections from continuing to be decided by sleazy commercials which appeal to ignorance and the basest of human emotions.

VI. ADDITIONAL ACTIVITIES

1. Invite Leaders of political parties to your class to discuss the class's recommendations.

2. Have students apply the framework for analyzing ads to the news coverage of the various candidates provided by ABC-CBS-NBC-CNN etc.

3. Divide students into 6 groups. Have each group write a 30 second ad. Have the groups "act out" the ads or produce them on video for the class.

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HANDOUT #1

About seven of ten Americans form political opinions from what they see on television and many become incapable of distinguishing between paid political advertisements and the news. Image matters on TV much more than what the candidate stands for.

Third party and independent candidates without the funds to purchase equal TV time are invisible and without validity. If you're not on television, then you do not exist. The majority of voters make up their mind from what they see on TV. The United States is one of the few countries that permits unlimited paid political television advertising in elections.

Television increases the pace and beat of attention and raises viewer expectations. A television presentation is not logical and sequential, it is multiple layered with several threads running simultaneously. The viewer must figure out the connections without verbal links. The result is that television viewers minds are filled with visuals of vicarious experiences. Television has indeed changed the way we view reality. Attention spans are shorter but viewers have the ability to leave and return to subjects and pick back up where they left off. The superficiality and quick scenic and subject changes of television have had a detrimental effect on the ability of viewers to think. Many people who get their news from television are unable to articulate one reason for their decision to vote a certain way.

The language of TV is fragmented, patchwork and a-historical. Viewers are not encouraged to make connections or form hypotheses. This is done by the announcer who smoothly takes us to the next quick subject. If television is going to enhance democracy it must stop grabbing and repeating incessantly the most sensational image and sound bite from a news story. It must begin to take its time to develop an historical background and give all sides to an argument regardless of whether the cameraperson obtained enough hot video to go with each point of view.

Frame to Frame
Image Manipulation
Frame to Frame
Gotta Build a Good Theme
Give the Masses
Another Dream

And in the Press Conference
they smile they charm
they think they're warm
they think they're warm
they think they're warm.

Lyrics by
Jack Hanna
Lee Bell

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HANDOUT #2

A FRAMEWORK FOR ANALYZING A POLITICAL TELEVISION COMMERCIAL

Complete this form. Then answer the questions.

1. Ad type. Check all that apply:
   Compare and Contrast_____ Attack_____
   Promotion_____ Issue_____

2. List Visual Images: _____
   _____
   _____.

3. List Words:
   _____
   _____
   _____
   _____.

4. Voice(s): Male _____ Female _____
   Candidate _____ Approximate age _____
   Describe:_____
   _____.

5. Music Type: Rock ___ Classical ___ Elevator ___ Other _____
   When start _____ When change _____ When finish _____

6. Props/Objects: _____.

7. Background/Settings (Candidate): _____
   _____.

8. Background/Settings (Opponent): _____
   _____.

9. Clothes (Candidate): _____
   _____.

10. Clothes (Opponent): _____
    _____.

11. Activity(ies) of Candidate: _____
    _____.

12. Activity(ies) of Opponent: _____
    _____.

13. Other people in the ad: _____
    _____.

14. What camera angles were used? Did you look up, down, or straight ahead at the candidates?
    _____
    _____.

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HANDOUT #2 (CONT.)

Concerning the ad, decide the following:

1. Primarily, what type of ad was this?

2. What do the visual images portray about the candidate and the opponent? For each image, list what you think the image was chosen to convey about either candidate.

3. What do the words convey about the candidate and the opponent? Which words are used when referring to each? Why?

4. Who delivered the words? Why do you think this announcer was chosen? Describe the inflection used. Which words were emphasized? How?

5. Was there music? What type(s)? How was the music used? Did it evoke a certain mood?

6. What did the props or objects used in the video convey about the candidate or opponent? Example: flag=patriotism, law books=learned.

7. What did each background/setting convey about the candidate and/or the opponent? Example: factory background=he or she is just a regular person.

8. What did the clothes the candidate and opponent wore convey about each?

9. What did the activities engaged in by the candidate, opponent or others convey to the viewer?

10. What did the other people in the ad convey about the candidate and/or opponent?

11. What message did the camera angles convey about the candidate and/or opponent?

12. What was the overall theme of the ad?

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VOCABULARY/CONCEPT LIST

frame:	one video image; there are 15 frames of video in one second
image:	a visible representation of an object; a popular projection conveyed through mass media
compare and contrast ad:	political ad that lists the good points of one candidate and the bad points of the opponent
attack ad:	an ad using bitter and inflammatory words to assail an opponent
issue ad:	an ad dealing with an unsettled political matter or topic which proposes a solution or approach
candidate promotion ad:	an ad which extols the virtues of a candidate and promotes him/her as the right choice
props:	tangible objects used in theater, film, and video, eg. flag, broom, gun, presidential seal
manipulation:	to control or play upon by artful, unfair, subliminal or prejudicial means
theme:	the core idea
video background/setting:	those things that when viewed stir a particular emotion; various environments seen in a video
inflection:	changes in pitch, how high or low the voice is, loudness and emotion

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SUGGESTED STRATEGIES FOR ELEMENTARY CLASSES

ADAPTATIONS: POLITICAL DECISION IN 30 SECONDS

1. Modify lesson description to read:

   Students will describe the types of advertising appeals and discuss ways in which candidates/product promotion images can be manipulated through television ads. Students will apply a framework for analyzing a 30 second video ad, develop guidelines for producing responsible television ads, and write television commercials for real or hypothetical candidates/product promotions.

2. Modify objectives to read:
   - Students will describe the types of advertising appeals.
   - Students will apply a framework of analyzing television commercials.
   - Students will develop guidelines for responsible political/product promotion ads.
   - Students will write and produce television commercials for real or hypothetical candidates/product promotions.

3. Inform students that most people encounter hundreds of ads everyday. These ads may be found in newspapers, on billboards, in magazines, on product packages, and on television. Point out that television ads can be used to promote products, services, and political candidates. Further explain that advertisement attempts to influence or persuade the reader or viewer.

4. Present and discuss the types of advertising appeals.

   ♦ Appeals to reason - These appeals present facts about the product and urge the consumer to make the right choice.

   ♦ Emotional appeals - These appeals are aimed at the universal desires of people. (Ex. "Why not be your most beautiful?") They appeal to emotions by making people think that the product cares about them. (Ex. "You make me feel brand new!")

   ♦ Appeals to authority - These appeals are based on trust in authorities. (Ex. A testimonial from a doctor endorsing a product may suggest that the product is safe.)

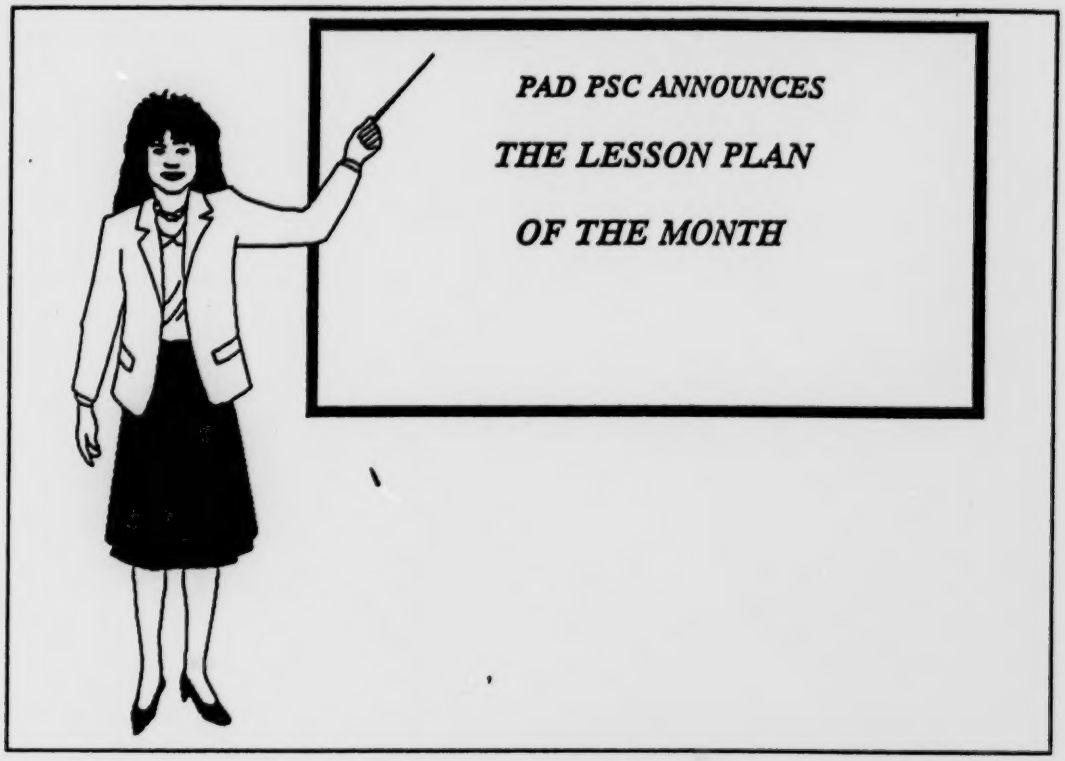
   ♦ Appeals by Association

      1. Bandwagon - encourages you to be part of the crowd and like everyone else

      2. Transfer - the aim is for the positive feelings depicted by the images to be transferred to the product. (Ex. An ice tea ad with a group of happy people at the beach.)

      3. Snob appeal - encourages you to become a member of a select group. (Ex. "Dare to be different: Wear Jason Jeans.")

      4. False testimonial - Using athletes to endorse a product, hoping that people will buy the product because of identification with the athlete.



OCTOBER

ROCK & ROLL AND FREEDOM OF SPEECH

*PAD PSC * 1511 K Street, NW * Suite 611 * Washington, DC * 202-638-2898*

Rock and Roll and Freedom of Speech

I. Lesson Description

Students will work in groups to discuss freedom of speech and its limits in different contexts. Students will create a city ordinance dealing with rock and roll songs. Students will apply the Constitution to the city ordinances.

II. Objectives

1. Students will analyze freedom of speech and censorship.

2. Students will understand that First Amendment free speech is not absolute, but has limits.

3. Students will draft a municipal ordinance.

III. Key Concepts and Vocabulary

censorship fighting words offensive conduct objectify

IV. Steps

1. Distribute Handout #1. The instructions are on the handout. The presenter should read over the scenario and answer any preliminary questions. Distribute Handout #2. Have students read it.

2. Have students to count off from one to five. Have all the students who share the same number assemble in a common area and then follow the instructions in Handout #1.

3. Write **"Freedom of Speech"** on the blackboard. Ask the students to define this concept using their own terms.

   Sample Answer: Freedom given by laws or the Constitution to express opinions and facts.

4. Ask the students if one's freedom of speech is absolute? Does it have limits?

   Examples of limits on speech:
   - ♦ Yelling **"Fire"** in a crowded theater when no fire exists
   - ♦ Fighting Words
   - ♦ Clear and present danger

5. Distribute the Key Concepts and Vocabulary List and discuss the terms.

6. Distribute Handout #3 entitled Case Law. Have the students read the case summaries.

7. Have each group exchange its ordinance with another group. Ask each group to play the role of the court deciding constitutionality of the ordinance as applied to the songs in Handout #3. Give the group the opportunity to read over the other group's ordinance and decide if it is constitutional.

V. General Discussion

Discuss the various ordinances passed and why the ordinances are/not constitutional.

VI. Additional Activities

1. Give examples of people or groups of people who have been objectified or are currently being objectified (see definition of objectify in vocabulary list). Discuss.

Sample List of Answers:

- Jews in Nazi Germany
- Japanese during World War II
- Blacks during slavery
- Homosexuals in America

2. Play parts of the songs listed in Handout #2 prior to beginning the discussion. Be wary of the controversial and possibly obscene content.

Handout #1 - THE CITY OF ARAKUS

Instructions:

In order to avoid future civil unrest, the city council has asked you (Groups 1-5) to serve as a special committee to draft a proposed ordinance to regulate the sale of rock music in the City of Arakus. Each group should draft an ordinance. Each group may suggest restrictions such as age limits, language content, effects on the listener, labeling etc... After developing the ordinance, each group should decide if it applies to any or all three of the songs in Handout #2.

♦ ♦ ♦ ♦ ♦

The City of Arakus has been the scene of unrest for the past couple of weeks. Police have been dispatched in every neighborhood of the city at various hours to make arrests and to settle disputes.

A neighborhood task force called the Means and Manner Committee, after careful study and analysis, determined that the blame for all of the disruptions and tensions flaring pointed in the direction of rock music.

The city council of Arakus has become aware of the Means and Manner Committee's findings and conclusions. In order to deal with the problems facing the City of Arakus caused by rock music, the city has appointed a special task force to deal with the problems. The City of Arakus has determined that the best way to deal with the unrest is to ban all video rentals, tape, CD, and record sales of four rock artists. However, the city has decided to wait until the special committee makes its recommendation before passing any ordinance.

Handout #2

Song #1, Masters of War, by Bob Dylan

This song is a diatribe against those who manufacture weapons of war. In the song, Dylan states: "I hope that you die and your death will come soon." The Means and Manner Committee believes that the song causes hatred and unrest.

Song #2, Killing Me Softly, Deadly Code of Silence, by Sister Souljah & Ice Cube

This song is an attack on George Bush. In it the artist states, "America is the most violent country on the face of the earth. Yet they are always tryin' to stuff non-violence down the throats of African people." The Means and Manner Committee believes that the song is a call to violence and terrorism.

Song #3, Simple Man, by Charlie Daniels

This song is an attack on the judicial system. In it the artist states, "If I had my way with people selling dope I'd take a big tall tree and short piece of rope, and I'd hang them up high and let them swing 'till the sun goes down." The Means and Manner Committee considers this song a call to vigilantism and violence.

Song #4, Cop Killer, by Ice T

This song is an attack on the police. It states, "I'm 'bout to bust some shots off. I'm 'bout to dust some cops off." The Means and Manner Committee believes that the song causes hatred and violence against law enforcement.

Handout #3 - CASE LAW

Chaplinsky v. New Hampshire, 315 U.S. 568 (1942).
A Jehovah's Witness denounced organized religion on a public street. He was warned by the police to "go slow" in the statements he was making. The crowd around Mr. Chaplinsky got irritated. He said to the police that "You are a d---- fascist and the whole government of Rochester is a ..." He was convicted of violating a state statute forbidding anyone to use **any offensive, derisive or annoying word to any other person who is lawfully in a public place... or calling him a offensive name.**

Holding: The Supreme Court held that there are a certain well defined set of words that the First Amendment does not protect including lewd, obscene, profane, libelous and **fighting words--those words that will cause an average man of common intelligence to fight when directed at him.** Fighting words include profanity, obscenity, threats and others.

R.A.V. v. St. Paul, 60 U.S.L.W. 4667 (U.S. June 22, 1992), reversed and remanded 464 N.W.2d 597 (Minn. 1991).
R.A.V., along with some of his teenage friends, constructed a cross by taping table legs together in the form of a crucifix. It was set ablaze inside the fenced yard of an African-American family. He was arrested and charged under the Bias Motivated Crime Ordinance, which prohibits the display of a symbol which one knows or has reason to know "**arouses anger, alarm, or resentment in others on the basis of race, color, creed, religion or gender**".

Holding: **The Supreme Court held the content of the message could not be regulated by the state because it amounted to censorship of ideas even though racist and filled with hate.** St. Paul's desire to communicate to minority groups that it does not condone "group hatred or bias-motivated" speech does not justify selectively silencing speech on the basis of its content. (The St. Paul ordinance was invalidated because it prohibited speech based on the content of the message.)

Terminello v. Chicago, 337 U.S. 1 (1949).
Mr. Terminello criticized various political and racial groups calling them "slimy scum, bedbugs, snakes," etc. in an auditorium. The crowd on the outside of the auditorium became enraged at Mr. Terminello's speech. They tried to tear the clothes off of people who tried to get into the auditorium. Mr. Terminello was arrested and charged with a breach of peace violation because the ordinance forbade any conduct which resulted in a condition of unrest, or created a disturbance.

Holding: The Supreme Court held that the ordinance was unconstitutional because it violated free speech. **Freedom of speech is protected against censorship and punishment, unless it is likely to produce a clear and present danger of a serious substantive evil that rises far above public inconvenience, annoyance or unrest.**

Key Concepts and Vocabulary

fighting words	those words likely to cause the average person to fight when directed at him or her
lewd	disgusting, indecent, vulgar
offensive conduct	conduct that causes unrest, or trouble
censorship	control, regulate, ban, restrict
objectify	thinking of groups of people as so different that they appear like an object; this often justifies discrimination.

SUGGESTED STRATEGIES FOR ELEMENTARY CLASSES

ADAPTATIONS: ROCK & ROLL AND FREEDOM OF SPEECH

1. Change title of lesson to read: **"Contemporary/Pop/Rock/Rap Music and Freedom of Speech."**

2. Modify lesson description to read:

   Students will discuss freedom of speech and its limits in different contexts. Students will create a city ordinance dealing with contemporary/pop/rock/rap music. Students will apply the Constitution to the city ordinance.

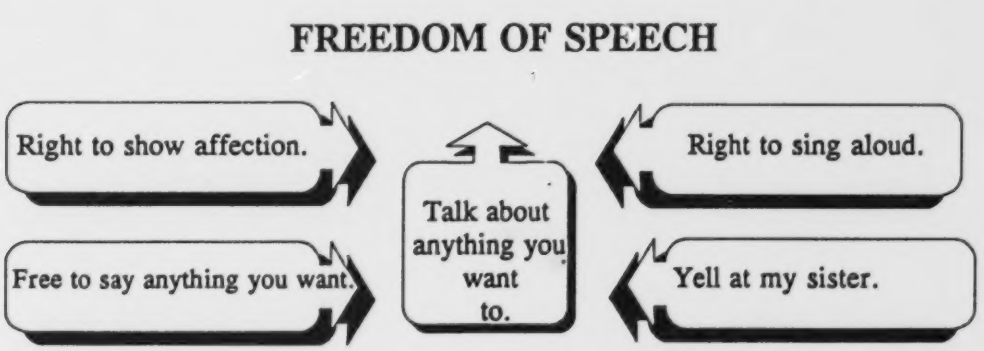
3. Objectives: Same as listed under the section entitled **"OBJECTIVES."**

4. Add the following terms and meanings under the section entitled **"KEY CONCEPTS AND VOCABULARY."**

   - ordinance - a law set forth by governmental authority
   - Bill of Rights - the 1st ten amendments to the U.S. Constitution
   - prohibit - to forbid by authority
   - abridging - shortening by omission of words without sacrifice of sense

5. Engage students in a webbing activity to determine their understanding of the meaning of **Freedom of Speech.**

   Example:


FREEDOM OF SPEECH
Right to show affection.
Right to sing aloud.
Talk about anything you want to.
Free to say anything you want.
Yell at my sister.

6. Inform students that the 1st ten amendments to the Constitution are called The Bill of Rights. Present the 1st Amendment, highlighting the reference to freedom of speech. **(The 1st Amendment:**

   "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; of the people peaceably to assemble, and to petition the Government for a redress of grievances.")

7. Define the words **prohibiting, and abridging.** Present the remaining terms and meanings listed under the section entitled **"KEY CONCEPTS AND VOCABULARY."**

8. Guide students in a discussion of whether ones's freedom of speech has limits. Examples of limits on speech:
   - Yelling "FIRE" in a crowded theater when there is no fire.
   - Fighting words
   - Clear and present danger

9. Distribute HANDOUT #3 (CASE LAW). Present each case and guide students in a discussion of the Supreme Court Holdings.

10. Divide the class into five (5) groups. Distribute HANDOUT #1. Read the directions to the students and have them complete the activity. (Other songs may be substituted for those listed on HANDOUT #2.)

11. Circulate among the groups, asking questions to check for student understanding.

12. Upon completion of the activity, have groups present their ordinances. Guide students in a discussion as to whether each ordinance is constitutional or not.

13. **ADDITIONAL ACTIVITY**
    As a home assignment, have students watch and listen to four (4) videos of their choice on TV and decide if their group's ordinance applies to any or all of the four songs.

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NOVEMBER

NEWLY FREE TO HATE

Happy Thanksgiving! This month's lesson coincides with the third aniversary of the dismantling of the Berlin Wall. It focuses on xenophobia and hate crimes in Germany and provides an unemotional lead-in to a discussion of these problems at home. You will probably want to schedule at least two class sessions to cover this material. You may find it advantageous to bring in an attorney or professor to aid in the discussion of the German Basic Law and the U.S. Bill of Rights. A special thanks goes to Dr. Irmgard Hantsche, Professor of History, University of Duisberg, Duisberg, Germany, for her assistance on this lesson.

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NEWLY FREE TO HATE

I. LESSON DESCRIPTION

The lesson begins with a description of the phenomenon of the lifting of totalitarianism in Eastern Europe, particularly in East Germany, and the simultaneous rise in anti-Semitism and hatred of foreigners. The lesson teaches the concept of the inviolability of certain provisions of the German Constitution or Basic Law and compares this with the process for amending the U.S. Constitution.

The lesson demonstrates the difficulty of legislating against hate crimes. The problem of the dominant culture and its relationship to minorities or "foreigners" in Germany will be highlighted in view of Germany prior to and during WWII and today.

II. OBJECTIVES

1. Students will understand that an unanticipated result of freedom for Eastern Block countries was an increase in anti-Semitism and hatred of and violence against foreigners and minorities.

2. Students will evaluate solutions to the problems of intolerance and racial hatred in Germany.

3. Students will understand the role played by the German government's liberal political asylum policy, accepting all immigrants who are refugees from political oppression, as a contributing factor to the problem of racist violence.

4. Students will compare the problems of intolerance in Germany with the same problems in the United States.

5. Students will evaluate the concept of inviolability as a constitutional doctrine.

III. KEY CONCEPTS AND VOCABULARY

totalitarianism
Holocaust
xenophobia
ideologue
anti-Semitism
neo-nazi
inviolability
political asylum
culture shock
hooligan
genocide

IV. STEPS

1. Distribute the key concepts & vocabulary to the class. Go over it with the class

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unless the teacher has accomplished this.

2. Have students bring in newspaper and magazine articles about hate crimes in the United States, the war in former Yugoslavia, Neo-Nazi assaults in Germany, and German political asylum. Discuss.

3. Distribute HANDOUT # 1 to the class. Read the handout to them or have them read it over. Highlight key points for students to remember.

4. Divide the class into 4 groups. Each group is to represent one of the contributing factors to racist violence in Germany, ie: 1) liberal political asylum and inviolability of the Basic Law, 2) German history, 3) the economy and high unemployment, 4) culture shock. Ask each group to determine from the information in Handout #1 how their factor contributes to the problem of racist violence in Germany. The groups may also consult any of the newspaper and magazine articles which have been brought into class. Each group should appoint a recorder and a reporter. Have each group report out their findings. Write key factors raised under each category on the blackboard.

5. Next have each group reassemble and propose solutions to the problem of racist violence in Germany addressing the issues of the inviolability of the Basic Law, the rights of immigrants and the rights of the neo-nazi youth. As each group reports write proposed solutions on the blackboard.

6. Distribute Handout #2 to the class. Ask students to compare and contrast the U.S. Bill of Rights with the German Basic Law. Ask students to determine whether they think the solutions proposed in step five violate either the U.S. Bill of Rights or the German Basic Law and why.

V. GENERAL DISCUSSION

1. Ask students to point out rights listed in the Basic Law which are not listed in the Bill of Rights and vice versa. Ask students to vote on whether any rights listed in the Basic Law should be added to the U.S. Bill of Rights.

2. Review and discuss the magazine and newspaper articles that were brought in by students and the teacher.

VI. ADDITIONAL ACTIVITIES

1. Ask students to reassemble in four groups. Ask each group to determine whether the rights listed in the U.S. Bill of Rights should be inviolate or whether they should remain amendable and thus capable of being done away with through the amending process listed in the U.S. Constitution. Have each group report the pros and cons of the doctrine of inviolability and whether it should be implemented in the United States.

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2. Have students work in groups of four again. Ask each group to make a list of what they learned from the German experience that could help Americans reduce and eliminate hate crimes and racist and homophobic violence.

VII. RELEVANT LAW

R.A.V. v. St. Paul, 60 U.S.L.W. 4667 (U.S. June 22, 1992), reversed and remanded 464 N.W.2d 597 (Minn. 1991).

R.A.V., along with some of his teenage friends, constructed a cross by taping table legs together in the form of a crucifix. It was set ablaze inside the fenced yard of an African-American family. He was arrested and charged under the Bias Motivated Crime Ordinance, which prohibits the display of a symbol which one knows or has reason to know "arouses anger, alarm, or resentment in others on the basis of race, color, creed, religion or gender".

Holding: The Supreme Court held the content of the message could not be regulated by the state because it amounted to censorship of ideas even though racist and filled with hate. St. Paul's desire to communicate to minority groups that it does not condone "group hatred or bias-motivated" speech does not justify selectively silencing speech on the basis of its content. (The St. Paul ordinance was invalidated because it prohibited speech based on the content of the message.)

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HANDOUT #1

One expected that the collapse of Communism in Eastern Europe would bring about a rise in tolerance and an embracing of democratic values. Unfortunately among certain portions of the population, quite the opposite has occurred. One of the first visible political trends in newly freed Eastern Europe was a rise in anti-Semitism. A general belief in democracy seems to be tempered with a willingness to violate the tenants of a free society, sometimes at even the highest levels of government.

The problem of intolerance has generated a civil war in the former country of Yugoslavia where a Nazi Germany style program of ethnic cleansing or genocide has been attempted against the Serbian Muslim population.

In Germany an interesting combination of history, culture shock, economics and constitutional doctrine have combined to create one of the most serious challenges to an established democracy's ability to cope with ethnic diversity. In attempting to analyze Germany's problem, students should be aware of the following:

- Hitler came to power in Germany in 1933 and began an official government policy of anti-Semitism including discrimination against Jews in employment, education, voting and all areas of life. This policy led to the "Final Solution" adopted during World War II in 1942, the ultimate aim of which was to extinguish all Jews and Jewish life from Europe. This policy of extermination was also applied to homosexuals, gypsies and others. When Jews tried to escape to other countries, they were often denied political asylum by those countries. Ultimately around 6 million people were exterminated in death camps.

- When World War II ended, the allies and the Germans were determined not to repeat the mistakes of the past. They wrote a constitution for Germany in which the Basic rights of the people could not be taken away by a majority vote or by decree as Hitler had done. The freedoms contained in the German Basic Law cannot ever be taken away under the present constitution. The rights are inviolable.

- Article 16 of the German Basic Law reads: "No German may be extradited to a foreign country. Persons persecuted on political grounds shall enjoy the right of asylum."

- Germany is a very prosperous country and has been very attractive to immigrants as a way of improving life from a financial standpoint. During the first ten months of 1991 over 300,000 people entered Germany claiming political asylum. Almost 1 million foreigners are estimated to live in Germany illegally. It takes 3-5 years to determine whether a person who has applied for political asylum is in fact a political refugee or has come just to pursue a better life. Immigrants often work or go on welfare and have children in Germany while waiting on the courts to decide their fate. Their children speak German and become used to German culture. It often takes the courts 3-5 years to decide whether a person is a bona fide political refugee. By then the German Government often allows immigrants to stay for humanitarian reasons.

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- When the Wall came down in November, 1989, and Germany was united, many East Germans had unrealistic expectations of instant prosperity under democratic capitalism. Instead, many of them, especially the young with outdated or no skills have faced unemployment, hopelessness and welfare. West Germans have also been hit with higher taxes and greater unemployment. Reunification is costing a lot more than originally predicted by the government. Many Germans are taking their frustrations out on the "foreigners".

- In former East Germany, a totalitarian communist state, foreign workers from Communist Korea and Cuba were kept segregated from and out of the view of East Germans. East Germans were not used to mixing with foreigners prior to the reunification of Germany.

- In the late 1980's prior to the dismantling of the Berlin Wall a skinhead youth movement began in East Germany. The communist government basically ignored the skinheads.

- In the first 8 months of 1991 there were 400 attacks in Germany against foreigners, left wingers, and homosexuals including one attack in which an African man was burned to death. The new nazi types who seem to more resemble soccer hooligans than Hitler ideologues claim that without foreigners there would be more jobs for Germans. They seem to ignore the fact that foreigners make up less than 1% of the East German population. Nevertheless, actual unemployment among East German youth runs as high as 25%.

- Now there are almost daily reports of assaults, arson, brutal mob attacks and beatings of foreigners largely led by Neo-Nazi youth.

- Unification has not produced the hoped for single German identity, but has produced a nation divided and suspicious.

- The emergence of a politically visible radical right wing and racist attacks has combined with spiraling numbers of refugees from Yugoslavia, Rumania and other formerly communist countries to produce a national resentment of Germany's liberal asylum law.

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HANDOUT #2 - THE BILL OF RIGHTS

Amendment I.*

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

Amendment II.

A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

Amendment III.

No Soldier shall, in time of peace be quartered in any house, without the consent of the Owner, nor in time of war, but in a manner to be prescribed by law.

Amendment IV.

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

Amendment V.

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb, nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

Amendment VI.

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed; which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defence.

Amendment VII.

In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

Amendment VIII.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

Amendment IX.

The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people.

Amendment X.

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

*The first ten Amendments (Bill of Rights) were ratified effective December 15, 1791.

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THE BASIC LAW FOR THE FEDERAL REPUBLIC OF GERMANY

I. Basic Rights

Article 1

(1) The dignity of man shall be inviolable. To respect and protect it shall be the duty of all state authority.
(2) The German people therefore acknowledge inviolable and inalienable human rights as the basis of every community, of peace and of justice in the world.
(3)[4] The following basic rights shall bind the legislature, the executive and the judiciary as directly enforceable law.

Article 2

(1) Everyone shall have the right to the free development of his personality in so far as he does not violate the rights of others or offend against the constitutional order or the moral code.
(2) Everyone shall have the right to life and to inviolability of his person. The liberty of the individual shall be inviolable. These rights may only be encroached upon pursuant to a law.

Article 3

(1) All persons shall be equal before the law.
(2) Men and women shall have equal rights.
(3) No one may be prejudiced or favoured because of his sex, his parentage, his race, his language, his homeland and origin, his faith, or his religious or political opinions.

Article 4

(1) Freedom of faith, of conscience, and freedom of creed, religious or ideological (weltanschaulich), shall be inviolable.
(2) The undisturbed practice of religion is guaranteed.
(3) No one may be compelled against his conscience to render war service involving the use of arms. Details shall be regulated by a federal law.

Article 5

(1) Everyone shall have the right freely to express and disseminate his opinion by speech, writing and pictures and freely to inform himself from generally accessible sources. Freedom of the press and freedom of reporting by means of broadcasts and films are guaranteed. There shall be no censorship.
(2) These rights are limited by the provisions of the general laws, the provisions of law for the protection of youth, and by the right to inviolability of personal honour.
(3) Art and science, research and teaching, shall be free. Freedom of teaching shall not absolve from loyalty to the constitution.

Article 6

(1) Marriage and family shall enjoy the special protection of the state.
(2) The care and upbringing of children are a natural right of, and a duty primarily incumbent on, the parents. The national community shall watch over their endeavours in this respect.
(3) Children may not be separated from their families against the will of the persons entitled to bring them up, except pursuant to a law, if those so entitled fail or the children are otherwise threatened with neglect.
(4) Every mother shall be entitled to the protection and care of the community.
(5) Illegitimate children shall be provided by legislation with the same opportunities for their physical and spiritual development and their place in society as are enjoyed by legitimate children.

Article 7

(1) The entire educational system shall be under the supervision of the state.
(2) The persons entitled to bring up a child shall have the right to decide whether it shall receive religious instruction.
(3) Religious instruction shall form part of the ordinary curriculum in state and municipal schools, except in secular (bekenntnisfrei) schools. Without prejudice to the state's right of supervision, religious instruction shall be given in accordance with the tenets of the religious communities. No teacher may be obliged against his will to give religious instruction.
(4) The right to establish private schools is guaranteed. Private schools, as a substitute for state or municipal schools, shall require the approval of the state and shall be subject to the laws of the Laender. Such approval must be given if private schools are not inferior to the state or municipal schools in their educational aims, their facilities and the professional training of their teaching staff, and if segregation of pupils according to the means of the parents is not promoted thereby. Approval must be withheld if the economic and legal position of the teaching staff is not sufficiently assured.
(5) A private elementary school shall be permitted only if the education authority finds that it serves a special pedagogic interest, or if, on the application of persons entitled to bring up children, it is to be established as an inter-denominational or denominational or ideological school and a state or municipal elementary school of this type does not exist in the commune (Gemeinde).
(6) Preparatory schools (Vorschulen) shall remain abolished.

Article 8

(1) All Germans shall have the right to assemble peaceably and unarmed without prior notification or permission.
(2) With regard to open-air meetings this right may be restricted by or pursuant to a law.

Article 9

(1) All Germans shall have the right to form associations and societies.
(2) Associations, the purposes or activities of which conflict with criminal laws or which are directed against the constitutional order or the concept of international understanding, are prohibited.
(3) The right to form associations to safeguard and improve working and economic conditions is guaranteed to everyone and to all trades, occupations and professions. Agreements which restrict or seek to impair this right shall be null and void; measures directed to this end shall be illegal. Measures taken pursuant to Article 12 a, to paragraphs (2) and (3) of Article 35, to paragraph (4) of Article 87 a, or to Article 91, may not be directed against any industrial conflicts engaged in by associations within the meaning of the first sentence of this paragraph in order to safeguard and improve working and economic conditions.[5]

Article 10[6]

(1) Privacy of posts and telecommunications shall be inviolable.
(2) This right may be restricted only pursuant to a law. Such law may lay down that the person affected shall not be informed of any such restriction if it serves to protect the free democratic basic order or the existence or security of the Federation or a Land, and that recourse to the courts shall be replaced by a review of the case by bodies and auxiliary bodies appointed by Parliament.

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Article 11

(1) All Germans shall enjoy freedom of movement throughout the federal territory.
(2)* This right may be restricted only by or pursuant to a law and only in cases in which an adequate basis of existence is lacking and special burdens would arise to the community as a result thereof, or in which such restriction is necessary to avert an imminent danger to the existence or the free democratic basic order of the Federation or a Land, to combat the danger of epidemics, to deal with natural disasters or particularly grave accidents, to protect young people from neglect or to prevent crime.

Article 12[1]

(1) All Germans shall have the right freely to choose their trade, occupation or profession, their place of work and their place of training. The practice of trades, occupations, and professions may be regulated by or pursuant to a law.
(2) No specific occupation may be imposed on any person except within the framework of a traditional compulsory public service that applies generally and equally to all.
(3) Forced labour may be imposed only on persons deprived of their liberty by court sentence.

Article 12a[3]

(1) Men who have attainted the age of eighteen years may be required to serve in the Armed Forces, in the Federal Border Guard, or in a Civil Defence organization.
(2) A person who refuses, on grounds of conscience, to render war service involving the use of arms may be required to render a substitute service. The duration of such substitute service shall not exceed the duration of military service. Details shall be regulated by a law which shall not interfere with the freedom of conscience and must also provide for the possibility of a substitute service not connected with units of the Armed Forces or of the Federal Border Guard.
(3) Persons liable to military service who are not required to render service pursuant to paragraph (1) or (2) of this Article may, when a state of defence (Verteidigungsfall) exists, be assigned by or pursuant to a law to specific occupations involving civilian services for denfence purposes, including the protection of the civilian population; it shall, however, not be permissible to assign persons to an occupation subject to public law except for the purpose of discharging police functions or such other functions of public administration as can only be discharged by persons employed under public law. Persons may be assigned to occupations – as referred to in the first sentence of this paragraph – with the Armed Forces, including the supplying and servicing of the latter, or with public administrative authorities; assignments to occupations connected with supplying and servicing the civilian population shall not be permissible except in order to meet their vital requirements or to guarantee their safety.
(4) If, while a state of defence exists, civilian service requirements in the civilian public health and medical system or in the stationary military hospital organization cannot be met on a voluntary basis, women between eighteen and fifty-five years of age may be assigned to such services by or pursuant to a law. They may on no account render service involving the use of arms.
(5) During the time prior to the existence of any such state of defence, assignments under paragraph (3) of this Article may be effected only if the requirements of paragraph (1) of Article 80 a are satisfied. It shall be admissible to require persons by or pursuant to a law to attend training courses in order to prepare them for the performance of such services in accordance with paragraph (3) of this Article as presuppose special knowledge or skills. To this extent, the first sentence of this paragraph shall not apply.
(6) If, while a state of defence exists, the labour requirements for the purposes referred to in the second sentence of paragraph (3) of this Article cannot be met on a voluntary basis, the right of a German to give up the practice of his trade or occupation or profession, or his place of work, may be restricted by or pursuant to a law in order to meet these requirements. The first sentence of paragraph (5) of this Article shall apply mutatis mutandis prior to the existence of a state of defence.

Article 13

(1) The home shall be inviolable.
(2) Searches may be ordered only by a judge or, in the event of danger in delay, by other organs as provided by law and may be carried out only in the form prescribed by law.
(3) In all other respects, this inviolability may not be encroached upon or restricted except to avert a common danger or a mortal danger to individuals, or, pursuant to a law, to prevent imminent danger to public safety and order, especially to alleviate the housing shortage, to combat the danger of epidemics or to protect endangered juveniles.

Article 14

(1) Property and the right of inheritance are guaranteed. Their content and limits shall be determined by the laws.
(2) Property imposes duties. Its use should also serve the public weal.
(3) Expropriation shall be permitted only in the public weal. It may be effected only by or pursuant to a law which shall provide for the nature and extent of the compensation. Such compensation shall be determined by establishing an equitable balance between the public interest and the interests of those affected. In case of dispute regarding the amount of compensation, recourse may be had to the ordinary courts.

Article 15

Land, natural resources and means of production may for the purpose of socialization be transferred to public ownership or other forms of publicly controlled economy by a law which shall provide for the nature and extent of compensation. In respect of such compensation the third and fourth sentences of paragraph (3) of Article 14 shall apply mutatis mutandis.

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Article 16

(1) No one may be deprived of his German citizenship. Loss of citizenship may arise only pursuant to a law, and against the will of the person affected only if such person does not thereby become stateless.
(2) No German may be extradited to a foreign country. Persons persecuted on political grounds shall enjoy the right of asylum.

Article 17

Everyone shall have the right individually or jointly with others to address written requests or complaints to the appropriate agencies and to parliamentary bodies.

Article 17a[9]

(1) Laws concerning military service and substitute service may, by provisions applying to members of the Armed Forces and of substitute services during their period of military or substitute service, restrict the basic right freely to express and to disseminate opinions by speech, writing and pictures (first half-sentence of paragraph (1) of Article 5), the basic right of assembly (Article 8), and the right of petition (Article 17) in so far as this right permits the submission of requests or complaints jointly with others.
(2) Laws for defence purposes including the protection of the civilian population may provide for the restriction of the basic rights of freedom of movement (Article 11) and inviolability of the home (Article 13).

Article 18

Whoever abuses freedom of expression of opinion, in particular freedom of the press (paragraph (1) of Article 5), freedom of teaching (paragraph (3) of Article 5), freedom of assembly (Article 8), freedom of association (Article 9), privacy of posts and telecommunications (Article 10), property (Article 14), or the right of asylum (paragraph (2) of Article 16) in order to combat the free democratic basic order, shall forfeit these basic rights. Such forfeiture and the extent therof shall be pronounced by the Federal Constitutional Court.

Article 19

(1) In so far as a basic right may, under this Basic Law, be restricted by or pursuant to a law, such law must apply generally and not solely to an individual case. Furthermore, such law must name the basic right, indicating the Article concerned.
(2) In no case may the essential content of a basic right be encroached upon.
(3) The basic rights shall apply also to domestic juristic persons to the extent that the nature of such rights permits.
(4) Should any person's right be violated by public authority, recourse to the court shall be open to him. If jurisdiction is not specified, recourse shall be to the ordinary courts. The second sentence of paragraph (2) of Article 10 shall not be affected by the provisions of this paragraph.[10]

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KEY CONCEPTS AND VOCABULARY

anti-Semitism:	a prejudice against Jews, hatred of and discrimination against Jews
culture shock:	a sense of confusion, disorientation and alienation brought on by exposure to a different culture without adequate preparation
genocide:	the deliberate systematic extermination or destruction of a racial, political, or cultural group
Holocaust:	the slaughter of European Jews by Nazis during World War II
hooligan:	a hoodlum, rioter or criminal; one engaged in random acts of violence and criminality
idealogue:	an impractical political purist
inviolability:	free from attack; inviolable rights may not be attacked or substantially changed or taken away
neo-nazi:	a present day German adherent to the racist philosophy of the National Socialist Party
political asylum:	one country's protection of a refugee from persecution on political grounds by another country
totalitarianism:	centralized control based on the subordination of the individual to the state and strict control of all aspects of life by coercive measures; absolute state authority maintained by lack of freedom and exercised by a small minority
xenophobia:	fear and hatred of strangers or foreigners

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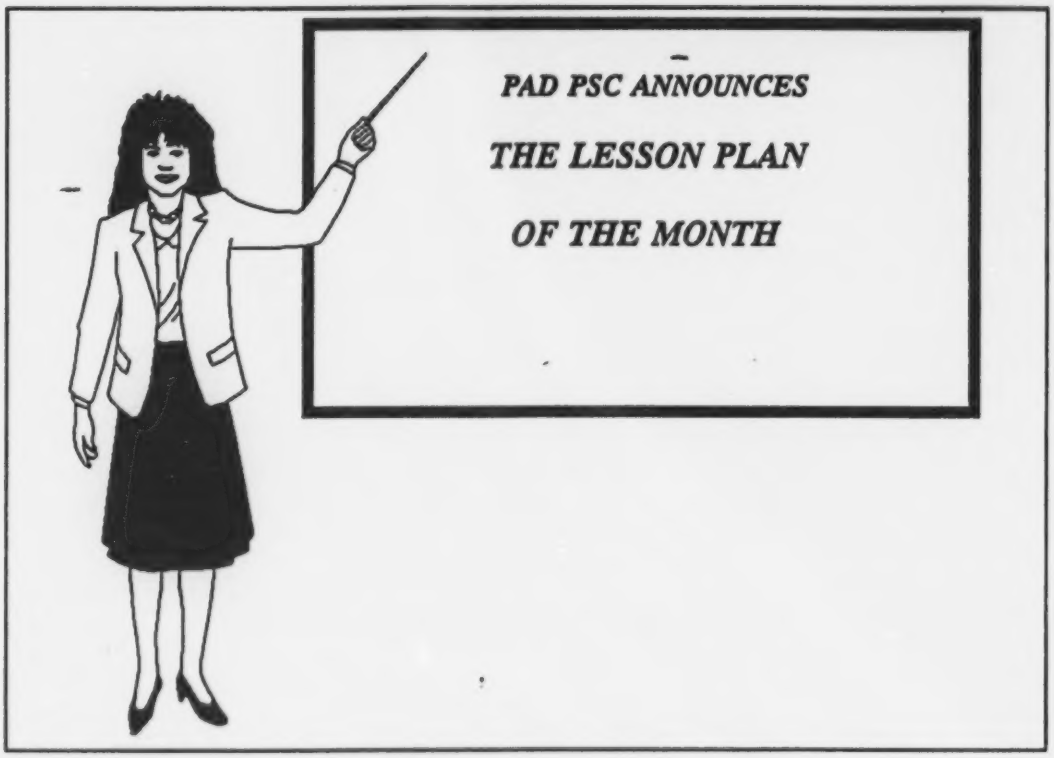

DECEMBER

CAN CONGRESS BE KICKED OUT?

Seasons Greetings! The rash of term limitation laws passed this November prompted us to design December's lesson around this issue. Will the law pass constitutional muster? You and your students decide.

*PAD PSC * 1511 K Street, NW * Suite 611 * Washington, DC * 202-638-2898*

CAN CONGRESS BE KICKED OUT?

I. LESSON DESCRIPTION

This lesson considers the constitutionality of term limitations for members of Congress. In fictional Malkan, students represent the equivalent of members of Congress and special interest groups and appear before the Malkan equivalent of the Senate Judiciary Committee, the Panel of Chotes. The panel is also comprised of students.

II. OBJECTIVES

1. Students will review the Constitutional issues surrounding term limitations.
2. Students will understand the eligibility requirements established in Article 1's Qualification Clause.
3. Students will understand the protections guaranteed by the Equal Protection Clause of the 14th Amendment as they relate to term limits.
4. Students will decide whether the term limit laws passed in November will uphold careful Constitutional scrutiny. .

III. KEY CONCEPTS AND VOCABULARY

case and controversy	consortium	constitutional
Equal Protection Clause	gridlock	justiciable
Qualifications Clauses	rational basis standard	standing
strict scrutiny standard		

IV. STEPS

1. Prior to the class period copy Handout #1 - Biographies of Malkanites. Cut the biographies so each group/person will have the appropriate biography.
2. Distribute Handout #4 - Key Concepts & Vocabulary to the class. Review the handout unless the teacher has already accomplished this.
3. Set the stage for the lesson by sharing with the class the following information:

   We are now in the state of Malkan. Malkan has the same type of government as the United States with a few exceptions.

   Malkan copied its Constitution from the United States. Malkan's Congress is like the Congress in the United States. Their Senate Judiciary Committee is called the Panel of Chotes. Malkan's Panel of Chotes decides whether or not laws should be challenged at the Supreme Court level. The Panel as it is commonly called is comprised of 3 "chotes." Once appointed Chote, a person remains on the Panel for life.

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Citizens' groups in Malkan are very vocal. They represent a diverse spectrum of opinion on the issue of term limitations. Three groups will be testifying before the Panel of Chotes on the term limits issue.

Past, present and potential members of Congress have opinions on term limitations. Preparing to testify before the Panel of Chotes are three individuals with personal interests in the issue. The aides of these individuals are preparing them to testify and will sit behind them during their testimony to assist them as needed.

The Malkan People's Gazette will publish an article the day of the hearing about term limits containing biographies of those having a role in the hearing. Thanks to connections with the journalist we have obtained some exerps.

4. Select three students to serve on the Panel of Chotes. Distribute Handout #2 and the biographies to these students and separate them from the rest of the students in the class. Have the remainder of students count off from one to six. Everyone sharing the same number is in the same group. Once the groups assemble distribute one biography to each group. Citizens' group members may all be part of the testifying group. Congressional groups should select one person to act as the member of Congress, the spokesperson. The remainder of the team will be the aide/coaches. These team members can feed the member of Congress information during the hearing.

5. After those scheduled to testify and their staff gather in groups to prepare for the hearing, distribute Handout #2 - Hearing Procedures. Also distribute Handout #3 - Relevant Law. Handout #3 will help students prepare their arguments. The Panel of Chotes should meet with the resource person or teacher to discuss hearing procedures and considerations to be taken into account by the Panel. The Panel of Chotes should prepare 3-4 questions to ask each witness. The hearing should begin 10 minutes after the group meetings begin.

6. For the hearing, the Panel of Chotes should be facing the rest of the room. The individual testifying should be closest to the Panel, the aides in the next row. Those awaiting their turn and any observers should be seated so they can see and hear the proceedings.

7. The hearing should be conducted in accordance with Handout #2. A student should serve as time keeper and call time when the individuals testifying have reached the three minute time limit.

V. DEBRIEFING STUDENTS

1. At the conclusion of the hearing the Panel of Chotes should discuss their findings so everyone in the room can hear. They should try to reach a consensus.

2. Distribute Handout #1 - Biographies to the class so all can see the background of the players. Did individuals, particularly the members of the Panel of Chotes, reach a predictable conclusion based on their biographies? Ask students if they

think this is true in society?

3. After the Panel of Chotes' decision has been handed down those present in the room should be polled. Did everyone agree with the panel? Why? What argument was most persuasive? Why? What argument was least persuasive? Why?

VI. ADDITIONAL ACTIVITIES

1. Have students draft a letter to their state legislators to share their opinions on term limitations.

2. Invite a local congressman/woman to class to discuss term limitations and how the state's elected officials are affected by them.

3. Assign each student a member of Congress or a member of the state legislature. Each student should research the individual assigned to him/her. Find out how term limits would affect the assigned elected official. What is his/her level of experience? How many terms has the official served?

4. Consider alternatives to term limits such as voting a long serving incumbent out of office. Look at the November, 1992 results in your state. Were people voted out of office? Why or why not? What do the results say about alleged anti-incumbent sentiment?

5. Invite representatives of the local Republican and Democratic Parties to class to discuss the term limit issue.

6. Bring magazine and newspaper articles on term limits to class. Discuss.

7. Ask students why it will be a long time before the term limit issue will be settled by the courts. See definition of standing.

VII. RELEVANT LAW

See Handout #3.

New York State Club Association, Inc. v. City of New York, 487 U.S. 1 (1988). A "distinctly private" club challenged a NY City law removing the privacy exemption (which allowed "distinctly private" clubs to discriminate) from clubs with more than 400 members which provided regular meal service and received direct payment. The Supreme Court upheld this amendment using the rational basis test. The Court found there to be a legitimate governmental purpose in providing citizens fair and equal opportunities to participate in the business and professional life of the city.

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HANDOUT #1 - BIOGRAPHIES

Taken from the MALKAN PEOPLE'S GAZETTE, article on Term Limitations for Congress[1]

Chote FOOT

Chote Foot serves as the chief member of the Panel of Chotes. Foot was appointed to the Panel 14 years ago and became the chief Chote after Chote Henry retired three years ago. Foot, an attorney from Capital City, Malkan, was the lobbyist for the National Gun Club before joining the Panel. Foot, a former fighter pilot in the Kreon War, zealously supports public education.

Chote PEN

Chote Pen is the newest member of the Panel, appointed this term. Since Pen has not been a part of many Panel sessions and was appointed as a compromise after Roger Bud was voted down, no one is sure where Pen will fall on the political spectrum. Pen is well educated and constantly reads about current events. At a recent Official dinner Pen was seated between a representative from each of the national political parties.

Chote BARREL

Chote Barrel was appointed to the Panel six years ago. Barrel, an educator interested in public service and democracy, approaches issues with an open mind. Barrel traveled extensively in Africa, including Botswana, while in the Peace Corp. Barrel attended pro death penalty rallies while in college in the 1970's.

UCA

United Citizens Association (UCA) is a Washington DC based association that advocates democratic government. "People have the right to elect whomever they view as qualified to fill public service positions," UCA spokeswoman Margo Wentworth stated. UCA will argue that term limits deny individuals the right to equal protection. They will argue that citizen's can cast a vote to boot the incumbent if the incumbent needs to be ousted.

CHOWL

CHOWL, Congress Has Our Well-Being Last, favors term limitations. The group believes that incumbent members of Congress get so caught up with power they lose sight of the people they represent. In response to the potential Equal Protection issue CHOWL responds, "the circumstances are so compelling here there is an exception to the equal protection clause." Political Action Committees contribute a disproportionate amount of money to incumbents regardless of their ideologies. This together with the fact that incumbents have media access, paid staff, a free travel budget, potential for constituent service and free postage to communicate with constituents leads to a greater likelihood of incumbent reelection. Additionally, uninformed people will not vote an incumbent out of office because that person is at least familiar. 1992 election results show the defeat of very few incumbents despite tremendous hostility toward incumbents.

CSC

The Constitutional Support Consortium (CSC) is comprised of faculty members who interpret the Constitution from colleges and universities nationwide. CSC opposes term limits based on the Qualifications Clauses of Article 1 and the Fourteenth Amendment's Equal Protection Clause. Article 1 lists the necessary qualifications for candidacy for the House and Senate. Absent a Constitutional Amendment these lists cannot be expanded. "No compelling argument has been made for treating incumbent members of congress different from the rest of the candidates. We must allow incumbents to run," CSC's spokesperson, Professor BJ Smith recently said. CSC views the Constitution's language as critical. "Despite popular desires to bar incumbents from reelection, voters, not policy makers must make the choices."

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HANDOUT #2 - Hearing Procedures

The Panel of Chotes is investigating whether Malkan can impose term limits on members of its Congress. Six witnesses/groups will present their positions on the issue. The hearing will be presided over by the three members of the Panel of Chotes; the Chief Chote will control the event.

Each witness/group will have a maximum of three minutes. The witness/group should begin with a one minute narrative explaining who he/she represents, if applicable, and the position of the person/group regarding term limits. The remaining two minutes will be spent answering the questions asked by the Panel of Chotes. A witness may, at any time, consult with his/her aides.

The Chief Member of the Panel of Chotes decides the order in which the groups will be called. The following will make presentations to the Panel:

CHOWL	Toni Munci, Esq.
CSC	Senator Arni Special
Senator Lesley Talco	UCA

After each group has made its presentation, the Panel of Chotes will have an open discussion in front of the class and decide if the term limits issue should reach the Supreme Court of Malkan based upon whether or not the term limits issue appears to be unconstitutional. Only after the Panel of Chotes has reached its decision will others in the room be able to comment about the outcome.

Chotes should appear for the hearings by drafting 3-4 questions for each group/individual.

Footnotes

1. Research information was obtained from the following article: Note, *Can They Throw the Bums Out? The Constitutionality of State-Imposed Congressional Term Limits*, 80 Geo. L.J. 1913-1940, (1992).

2. The Term Limit Train, Wall St. J., Oct. 11, 1990 at A14. A competitive race is one where the challenger raises at least $25,000.

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TONI MUNCI

Toni Munci is a senate hopeful who wants Arni Special and other life long members of Congress to pack their bags and head home for good. Munci is a young, enthusiastic attorney who sees the need to clean out the Congress as critical. Aware of the 14th Amendment issue, Munci stated, "the state interest here is so compelling that this issue demands an exception to the equal protection clause. Certainly the Constitution is the law, but here we have a legitimate crisis that we must deal with as Malkan citizens." Munci has made no comment regarding the Qualifications Clause issue. Munci's opponent for the senate has so far received 3 times more money from Political Actions Committees than Munci. Munci claims that, "without term limits our government will stagnate." Common Cause, a Washington, DC based citizen's group found that fewer than 1/16th of the House of Representatives incumbents were involved in competitive races in 1990.[2] "Absent term limits the good'ole boys will just keep control by default. Although campaign finance reform might help, we need something more immediate."

LESLEY TALCO

Lesley Talco was just reelected to Congress and thus will begin a second term in January. Talco is opposed to term limitations because of the Constitutional issue. "Personally I would love to clean house and be rid of some of the dead wood hanging out in the Senate Chamber, but Article 1 and the 14th Amendment must be respected," Talco recently told the citizens back home. Talco supports educating voters about the need for change and campaigning on individual's records rather than on personal issues. She supports a Constitutional Amendment on term limits, but acknowledges that such an amendment would require restructuring of the power structure in Congress. Presently seniority equals power. If all members could serve for a maximum of twelve years, then a new means of giving out Committee Chairs, for example, would have to be developed. We could break the gridlock.

ARNI SPECIAL

Arni Special has been a member of Congress for 16 years. Special has been embroiled in controversy for most of those years. Despite a nationwide cry to rid Congress of this closed minded member, Special was recently reelected to office by 52% to an opponent's 48%. Special, a life long politician, is undoubtedly part of the establishment. Special will remind the Panel of the voter's decision not to elect a new face. If they wanted Special out, they had their chance. Special is ready to continue zealously supporting the causes he/she is known for supporting.

Special will argue that term limits will force the retirement of influential, experienced legislators, thus furthering the influence of special interest groups and non-elected congressional staff. Also, term limits will result in members serving their final term to be even less responsive to their constituents and their ethical obligations since they will not be accountable to voters in the next election.

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HANDOUT #3 - Relevant Law

U.S. CONSTITUTION

ART. 1, SECT. 3, CL. 2

. . . NO PERSON SHALL BE A REPRESENTATIVE WHO SHALL NOT HAVE ATTAINED THE AGE OF TWENTY FIVE YEARS, AND BEEN SEVEN YEARS A CITIZEN OF THE UNITED STATES, AND WHO SHALL NOT, WHEN ELECTED, BE AN INHABITANT OF THAT STATE IN WHICH HE SHALL BE CHOSEN. . .

ART. 1, SECT. 3, CL. 3

. . . NO PERSON SHALL BE A SENATOR WHO SHALL NOT HAVE ATTAINED TO THE AGE OF THIRTY YEARS, AND BEEN NINE YEARS A CITIZEN OF THE UNITED STATES, AND WHO SHALL NOT, WHEN ELECTED, BE AN INHABITANT OF THAT STATE FOR WHICH HE SHALL BE CHOSEN. . .

FOURTEENTH AMENDMENT, ART. 1

. . . NO STATE SHALL . . . DENY TO ANY PERSON WITHIN ITS JURISDICTION THE EQUAL PROTECTION OF THE LAWS. . . .

The equal protection clause of the fourteenth amendment guarantees that all citizens will be treated as equals; protected equally under the law.

♦ ♦ ♦ ♦

Sample Term Limitation Law - Colorado

Article XVIII of the Constitution of Colorado was amended in 1990 by the addition of the following section:

Section 9. US Senators and representatives -- limitations on terms. 1) In order to broaden the opportunities for public service and to assure that members of the United States Congress from Colorado are representative of and responsive to Colorado citizens, no United states Senator from Colorado shall serve more than two consecutive terms in the United States Senate, and no United State Representative from Colorado shall serve more than six consecutive terms in the United States House of Representatives. This limitation on the number of terms shall apply to the terms of office beginning in or after January 1, 1992. Any person appointed or elected to fill a vacancy in the United States Congress and who serves at least one half of a term of office shall be considered to have served in that office for purposes of this subsection (1). Terms are considered consecutive unless they are at least four years apart.

♦ ♦ ♦ ♦

INTERESTING FACTS

♦ Those states in which term limits have passed as of the November 1992 election include Arizona, Arkansas, California, Colorado, Florida, Michigan, Missouri, Montana, Nebraska, North Dakota, Ohio, Oregon, South Dakota, Washington & Wyoming. Generally, the term limits mandate members of the House serve no more than six years and members of the Senate serve no more than 12 years consecutively.

♦ A Library of Congress study estimates the postage expenses for the House alone in 1989 and 1990 were over $136 million, an average of over $300,000 per Representative. George Archibald, Frankly Speaking, Watchdog Group Finds Hypocrisy in House Mail Jobs, Wash. Times, Sept. 21, 1990 at A3.

♦ Senate incumbents enjoyed a 3.5 to 1 advantage over challengers in the amount of money received from PACs in 1990. House incumbents advantage was 11.5 times greater than challengers in the same year. Charles Babcock, Spending for 1990 Hill Races Fell; But Outlays by Senate and House Incumbents Rose, Figures Show, Wash. Post, Feb. 25, 1991 at A7.

♦ All 14 states that had term limit initiatives on their ballots in 1992 passed the initiatives. In 11 states the measures passes overwhelmingly, with more than 60% of the votes. In 1990 the Colorado initiative passed with 71% of the vote.

♦ ♦ ♦ ♦

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HANDOUT #4 - Key Concepts and Vocabulary

case and controversy — a dispute must be real, not faked or hypothetical, before it can be heard in court. Actual harm must be happening, not in the distance.

consortium — the group that results from the joining of several persons or organizations.

constitutional — laws passed by the Congress or made by the courts must not violate or be contrary to the United States Constitution; if they are they are considered unconstitutional and thus not enforceable. Likewise, state laws must not violate the U.S. Constitution or the state constitution.

Equal Protection Clause — this clause contained in the Fourteenth Amendment of the United State's Constitution requires that each state provide equal treatment to all citizens; no individual or group should treated better or worse than any other individual or group unless there exists a compelling state interest to justify the disparate treatment. The Due Process Clause of the Fifth Amendment requires that the Federal Government treat everyone as equals.

- **rational basis standard** — a minimal standard of review or scrutiny used in analyzing Equal Protection Clause challenges. Pursuant to this standard the court asks a) whether the regulation or classification furthers some governmental purpose and b) whether there was a reasonable connection between this purpose and the governmental regulation or classification. This test is quite generous in its presumption in favor of government classification. Most cases decided using this standard satisfy the constitutional requirement of equal protection. Under this standard a regulation or classification will be upheld if the state can show that some legitimate governmental purpose will be served and that the means chosen will help accomplish that purpose.

- **strict scrutiny standard** — standard of review applied when a fundamental right (ie: free expression, right to travel, right to vote, right to privacy) is curtailed or when a suspect classification (ie: race, alien status) is used in state action. The government must justify its action by showing that it is promoting or protecting a compelling state interest and that no less burdensome means of promoting that interest exist. This is a very high standard and most regulations fall in the face of such scrutiny.

gridlock — a traffic jam in which a grid of intersecting streets is so completely congested that no vehicular traffic can move; a situation resembling a gridlock in that congestion or lack of movement is stopping any progress.

justiciable — proper to be decided by the court.

Qualifications Clause — these clauses contained in section 3, clauses 2 and 3 of Article 1 of the U.S. Constitution set out the requirements that must be met by any individual seeking a Senate or House of Representative seat respectively in Congress.

standing — a person's right to be a part of a lawsuit because he/she is directly affected by the issued raised; requirement in an action by a citizen or group of citizens against the government that the issue or conduct being challenged invades or will invade a substantive legally protected interest of the person/group bringing the action.

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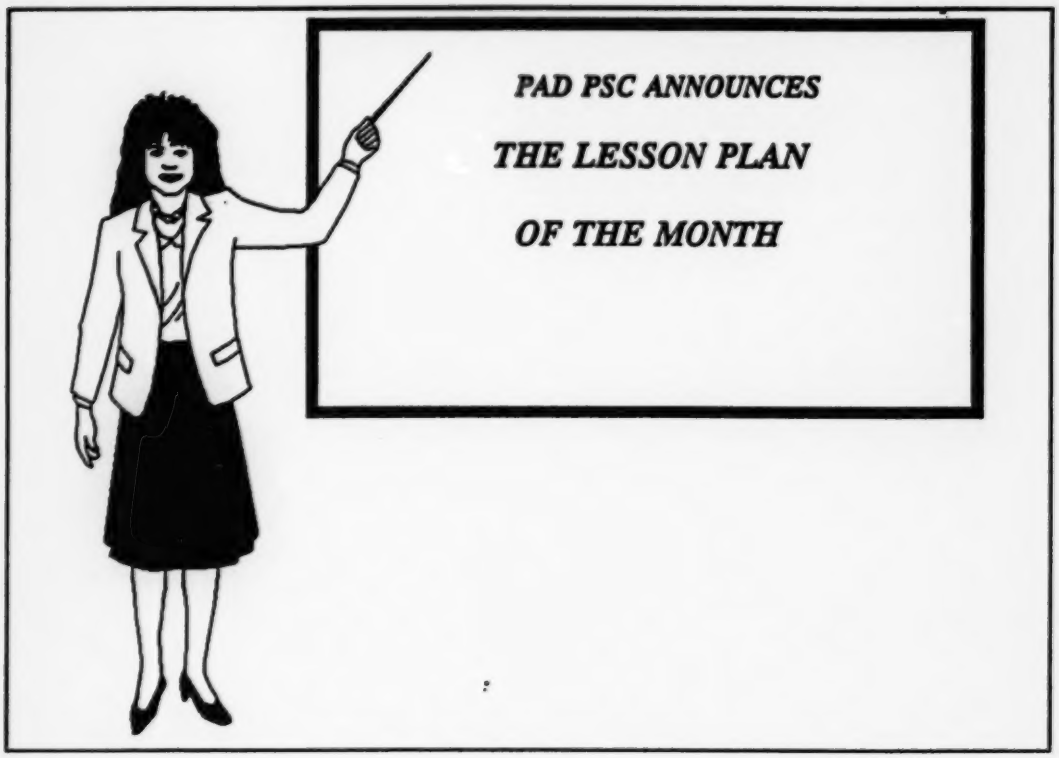

JANUARY

LOBBYING, PACs and ETHICS

Happy New Year! During the 1992 campaign lobbying practices became a focal issue. President Clinton vowed to "stop the revolving door" between government and the private interests it regulates. The number of Political Action Committees has risen from 608 in 1974 to 4,172 in 1992. Recent scandals at the federal and state levels have led us to choose lobbying as the first Lesson of the Month for 1993. We hope you enjoy it.

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LOBBYISTS, POLITICAL ACTION COMMITTEES & ETHICS: WHAT SHOULD BE THE BOUNDARIES?

I. LESSON DESCRIPTION

Students will practice lobbying methods by roleplaying as lobbyists and as members of Congress confronted with the issue of a mandatory waiting period prior to the purchase of a handgun. Students consider the ethical dilemmas caused by lobbying. They will draft legislation to resolve ethical issues raised by lobbying and gifts to politicians from lobbyists.

II. OBJECTIVES

1. Students will understand how lobbyists and Political Action Committees (PACs) influence Congress.

2. Students will decide what gifts, if any, lobbyists/PACs should be able to contribute to members of Congress and what activities should be prohibited.

3. Students will draft model legislation to regulate the activities of members of Congress, PACs and lobbyists and discuss whether such legislation is enforceable and practical.

III. KEY CONCEPTS & VOCABULARY

ethical lobbyist mandate
Political Action Committee

VI. STEPS

1. Distribute Handout #5, Key Concepts & Vocabulary, to the class. Review the handout unless the teacher has already accomplished this.

2. Ask students to count off from one to three. Place all those sharing the same number in the same group. Group #1 will be members of Congress who will be lobbied by those for and against a mandatory waiting period prior to the purchase of a handgun. Group #2 will support the legislation and group #3 will oppose the legislation.

3. Distribute the relevant information for each group contained in Handout #1. After reviewing the relevant information, lobbyists should approach the members of Congress and attempt to persuade the members to support their side of the waiting period question. (If possible, ID tags should be worn by all indicating who they represent or if they are a member of Congress.)

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4. After approximately 8 minutes of lobbying ask the students to return to their seats. Ask those who served as members of Congress to 1) list some of things said/offered to them by the lobbyists; 2) state what was most persuasive; and 3) state how he/she would vote on the legislation.

5. If available, a lobbyist or member of the state legislature is an excellent resource person to have in class. Have the resource person comment on how realistic the lobbying interaction was, what technique he/she would use or be persuaded by and what the most successful lobbying techniques are.

6. Distribute a copy of Handout #2 to each student. Each student should briefly respond to every question. The answer should reflect the students' opinions. The questions are to stimulate discussion.

7. Discuss student responses to Handout #2, then share with them the contents of Handout #3. Allow the classroom resource person to comment on these scenarios.

8. Have students count off from 1 to 5. All those sharing the same number will be in the same group. Students will draft model legislation to deal with the influence on legislation by lobbyists and Political Action Committees. Distribute Handout #4, Rules for Drafting Legislation, to each group. Each group should select a recorder to write down the group's proposal and a reporter to report the group's proposal to the class.

9. After ten minutes ask each group to share their legislation with the class. Could it be enforced? Would it have any effect? Would it make the average voter have more trust in the government? What was each group's objective when drafting the legislation?

V. DEBRIEFING STUDENTS

1. Have the resource person comment on the practicality of the legislation proposed by the groups of students.

VI. ADDITIONAL ACTIVITIES

1. Have students collect and bring to class articles about lobbying, Political Action Committees and/or ethics.

2. Have students write letters to their congressman/woman, state legislator or city council member expressing their views about lobbying/PACs/ethics.

3. Have each student select an issue, gather information, contact lobbyists on both sides and write a report on the issues and how he/she would vote if he/she were an elected official. Discuss the educational role served by PACs/lobbyists.

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4. Discuss the following statements:

   a. Our society has broken down into factions each with its own channel on cable television. Each faction is constantly reinforcing the points of view of its membership.

   b. Politicians cannot afford to make many PACs angry. They try to appeal to as many groups as possible.

   c. Shifting coalitions of special interest groups dominate our democracy.

   d. In 1974 there were 608 PACs, by 1990 there were 4,172. Laws should deter the proliferation of PACs.

5. Have students develop pro and con lobbying statements for other important issues, eg: health care, wetlands protections.

6. Obtain a copy of your state's current lobbying laws from the state legislature.

VII. RELEVANT LAW

The following is a section from a South Carolina law. It is a sample state law dealing with ethical issues and lobbying.

> . . . Whereas, the General Assembly declares that to preserve and maintain the integrity of the governmental policy making process in South Carolina it is necessary that the identity, expenditures and lobbying of certain persons who engage in efforts to influence any public official or public employee on legislation or agency proposal, drafting, development, consideration, amendment, withdrawal, or promulgation of a regulation, by direct communication to any such official or employee, be publicly and regularly disclosed; and . . .
>
> . . . Whereas, the General Assembly finds and declares that full disclosure of campaign contributions and expenditures also is needed to maintain the integrity of the political and governmental processes and to ensure that all individuals have a fair and equal opportunity to participate in the political and governmental processes regardless of any contribution they may have or have not given to an elected official; . . .

The Ethics, Government Accountability, and Campaign Reform Act of 1991, 2 S.C. Code Ann. ch. 17 §§ 5-150 (Law Co-op. 1992 Supp.).

United States Constitution, Second Amendment:

> A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed.

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GROUP #1 - MEMBERS OF CONGRESS

Lobbyists will be approaching you to discuss whether or not a three day waiting period should be mandatory prior to the purchase of a handgun.

The legislation as proposed requires individuals seeking to purchase a gun to fill out an application before buying the gun. During the waiting period a computer background search is completed on the proposed purchaser. If the person is a convicted felon, has any outstanding police warrants, is or was on probation, or has any charges pending against him/her, the gun sale is prohibited. Any merchant who receives notification that a proposed purchaser is "prohibited" must notify local authorities via computer entry. If a merchant sells a gun to an individual who is in the prohibited category, the merchant will lose his/her license to sell guns and be fined; if a merchant fails to notify local authorities of a prohibited classification, the merchants gun sales license will be suspended and the merchant will be fined.

After listening to advocates of both sides you must decide if you will vote for or against the legislation as it is written or for some amended version.

♦ ♦ ♦ ♦

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GROUP #2 - SUPPORTERS OF THE PROPOSED LEGISLATION

Legislation is before Congress that would mandate a three day waiting period before one could purchase a handgun.

The legislation as proposed requires individuals seeking to purchase a gun to fill out an application before buying the gun. During the waiting period a computer background search is completed on the proposed purchaser. If the person is a convicted felon, has any outstanding police warrants, is or was on probation, or has any charges pending against him/her, the gun sale is prohibited. Any merchant who receives notification that a proposed purchaser is "prohibited" must notify local authorities via computer entry. If a merchant sells a gun to an individual who is in the prohibited category, the merchant will lose his/her license to sell guns and be fined; if a merchant fails to notify local authorities of a prohibited classification, the merchants gun sales license will be suspended and the merchant will be fined.

Each member of group #2 should represent one of the following organizations. Two or more individuals can represent a group if necessary. Each organization strongly supports its position stated below and will do what it believes necessary to get the legislation passed. Statements to members of Congress should be based on the information contained in the position statements.

SANE CITIZENS: Many people who own guns do not know how to use them. Consequently, innocent people become victims when their gun goes off accidently, or when a frightened person hears a noise and shoots into the darkness. Numerous children are injured annually when they play with a gun their parents have not unloaded and stored properly. An application and waiting period would make people think more about the very dangerous weapon they are about to purchase. Mandatory skill lessons should be added to the legislation so that all potential owners have some training with guns. Sane Citizens is sponsoring a weekend retreat in Hilton Head for members of Congress to learn about the violence caused by guns.

PARENTS AGAINST VIOLENCE: Access to guns promotes violence. Children get killed because they think guns are toys. Many parents give their children toy guns which begins the cycle that too often ends in death. Many in this group have lost a family member in a gun accident. Consequently, they support the legislation and would support more stringent regulation of handgun permits.

GANG STOPPERS: Gangs are taking over cities. Innocent people are being slain in the streets. GANG STOPPERS wants to bring members of Congress to south central LA to meet citizens and former gang members to hear about the reality of life in the city and experience the fear faced by families unable to retreat to the suburbs. They support the legislation and seek harsh penalties for anyone in possession of a gun without a permit.

CAR ASSOCIATION OF THE UNITED STATES, EMPOWERED: A few people with guns are randomly shooting at motorists from overpasses and people are being killed. CAUSE has advised motorists to drive up to 100 miles out of their way to avoid certain stretches of road because random shootings have become so common. Carjackings have also become commonplace. People are being forced from their cars at gun point, robbed, raped and in some cases murdered. Controlling access to firearms will help stop such senseless violence. CAUSE supports the legislation.

THE POLICE ANTI-VIOLENCE GROUP: Statistics indicate individuals with criminal records are more likely to own and use guns than those with no criminal records. Many innocent adults, children and police are killed annually because of the ease with which individuals can get access to guns.

♦ ♦ ♦ ♦

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GROUP #3 - OPPONENTS OF THE PROPOSED LEGISLATION

Legislation is before Congress that would mandate a three day waiting period before one could purchase a handgun.

The legislation as proposed requires individuals seeking to purchase a gun to fill out an application before buying the gun. During the waiting period a computer background search is completed on the proposed purchaser. If the person is a convicted felon, has any outstanding police warrants, is or was on probation, or has any charges pending against him/her, the gun sale is prohibited. Any merchant who receives notification that a proposed purchaser is "prohibited" must notify local authorities via computer entry. If a merchant sells a gun to an individual who is in the prohibited category, the merchant will lose his/her license to sell guns and be fined; if a merchant fails to notify local authorities of a prohibited classification, the merchants gun sales license will be suspended and the merchant will be fined.

Each member of group #3 should represent one of the following organizations. Two or more individuals can represent a group if necessary. Each organization strongly supports its position stated below and will do what is necessary to ensure the legislation is not passed. Statements to members of Congress should be based on the information contained in the position statements.

AMERICAN SPORTSMEN'S COALITION: Many Americans hunt and shoot recreationally. We are the people who buy guns legally. The guns that are killing people are stolen guns, guns smuggled into the country and obtained on the black market. The proposed legislation will only hurt the sporting industry and result in over population of animals usually hunted for food and pleasure. This legislation will not stop the problems it seeks to end. Rather it will deter sports enthusiasts from purchasing hunting and shooting equipment and participating in the sporting activities. This organization sponsors the Annual Congressional Hunt in Wyoming, which members of Congress attend at no cost.

NATIONAL GUN CLUB: Supported by gun enthusiasts, this group believes all citizens have the Constitutional right to own and possess guns in accordance with the Second Amendment. No one should be deprived of that right absent a Constitutional Amendment. Once the right to bear arms is picked at by a waiting period, it will soon follow that our right to bear arms is totally abolished.

COLLECTORS OF AMERICA: Made up of people who collect guns as a hobby, this organization opposes the legislation because they fear the next step would be to bar individuals from having large arsenals of guns without a special permit. COA believes individuals should be able to own 300 guns if they desire, without answering to anyone. They also believe individuals should be able to have immediate access to guns. COA sponsors a collector's show each November in Las Vegas. Door prizes include guns.

WEAPONS MANUFACTURERS ASSOCIATION: The members of WMA make money when guns are sold. The proposed law would result in decreased profits for WMA members. Additionally, WMA estimates 1,000 people will lose their jobs when the legislation is passed, with more layoffs to follow.

CONSTITUTIONAL GOVERNMENT FOUNDATION: This organization strictly interprets the Constitution. They interpret the Second Amendment to give all citizens the right to bear arms. They view gun control laws as unconstitutional and oppose enactment of any such laws.

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HANDOUT #2 - Questionnaire

Briefly respond to each of the following questions.

1. Should a member of Congress be able to accept a Mercedes-Benz ($33,000 value) from a company if the gift is offered? What if the car is offered after the Congress member has retired from public office?

2. Should a member of Congress and the member's family be allowed to accept free eye-care including glasses and contact lenses from a business in the member's district? Why or why not? Should there be a limit to what the Congress member can receive from a business?

3. Should indirect contributions by Political Action Committees be allowed; for example, should Senator X who supports the family leave bill be featured in a "Moms and Dads' Magazine" advertisement paid for by Diaper Designers, Biscuit Baby Food and the Anti-Child Abuse Foundation? What indirect benefit, if any, does Senator X receive from this advertisement? What if the Senator wrote an article published by the magazine? Should he/she be paid?

4. Should members of Congress be able to accept all expense paid ski vacations including travel, lodging, lift tickets and $500 worth of miscellaneous gifts? Would your response change if lobbyists and corporate personnel in attendance pay $2500 for the opportunity to participate in the ski competition with the members of Congress?

5. Senator Z is from a state that profits from tourism. Consequently, he founded a Legislative Service Organization (LSO) with the assistance of other Senators from states with tourism industries. Tourism LSO is entitled to Congressional office space, equipment and staff. Their non-profit subsidiary just received grants from an airline for $100,000 and from a hotel chain for $250,000. Should this LSO which indirectly supports Senator Z and his state be entitled to free rent, equipment and staff? Would you feel differently if you were from a state with no tourism industry?

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HANDOUT #3 - REALITY CHECK FOR THE QUESTIONNAIRE

1. Mercedes-Benz donated a car valued at $33,000 to the U.S. Association of Former Members of Congress to support the continuation of seminars and other exchanges between present and former members of Congress when requested to do so by the Congressional Study Group on Germany, an organization of 82 representatives and 19 senators connected to the former members' association.[1] Since sitting members could not accept such a gift, but their retired colleagues could, the car was given to the Association of Former Members of Congress.

2. Sen. Strom Thurmond (R-SC) and his family receive free eye-care including glasses and contact lenses from an eye-care center in South Carolina.[2]

3. The October, 1991 issue of *Sports Afield* Magazine featured a photo of seven congressmen when the Congressional Sportsmen's Caucus Foundation bought a 30 page advertising section in the magazine to publicize the Congressional Sportsmen's Caucus, a two-year-old organization that fights for hunting & fishing enthusiasts on issues such as gun control and animal rights.[3] The layout included advertisements from companies including Smith & Wesson, Anheuser-Busch, Colt, the NRA, Winchester and Remington plus featured articles by and about the caucus.[4]

4. Senators were guests at the Senators Ski Cup in Utah. They received free travel, lodging, lift tickets and a bag of goodies worth approximately $438.[5] The lobbyists and business executives who joined the senators paid $2,500 for the privilege to ski with the senators.[6] In 1991 the ski cup raised approximately $450,000 of which about half went to a designated charity and half to overhead.[7]

5. Legislative Service Organizations (LSOs) such as the Congressional Sportsmen's Caucus, deal with issues ranging from tourism to human rights.[8] LSOs, organized by members and registered with the House, are eligible for Congressional office space, equipment and staff.[9] LSOs can't take private contributions thanks to a 1981 attempt at reform, but LSOs can set up nonprofit foundations which can accept private funds to do related work.[10] Some of these tax-exempt organizations have yearly budgets as large as $2 million dollars or more.[11]

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[1] Overby, Peter, "How Special Interests Cater to Congress," Common Cause Magazine, Jan./Feb./March, 1992, pp 14-18, 14.

[2] Overby at 14.

[3] Overby at 15.

[4] Id.

[5] Overby at 18.

[6] Id.

[7] Id.

[8] Overby at 15.

[9] Id.

[10] Id.

[11] Id.

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HANDOUT #4 - Model Legislation Guidelines

You are a committee of citizens assembled to draft legislation governing the interaction between members of Congress and lobbyists/Political Action Committees. The legislation you draft will go to the voters in a referendum. The rules you draft must be clear so that the average citizen will understand what you suggest. A good law should accomplish the objectives for which it is written.

Below are some of the issues you may want to deal with in your legislation:

♦ Lobbyists educate members of Congress on issues. Since every Congress deals with a huge amount of legislation no one person can be an expert on every issue. Lobbyists relay vital information to members of Congress and their staffs on the issues in their area of expertise. Lobbyists perform an important role in educating legislators about the issues and by in large are very professional and above board. However, there is always the temptation to corruption. You want to reduce the chances that temptation will arise.

♦ Do/should/can lobbyists give gifts to members of Congress and/or their staffs, ie: lunches, sports cars, suits? What, if any, gifts are okay? Should all lobbyists be required to register and submit a list of all gifts on an annual basis for public inspection?

♦ How much contact by lobbyists/PACs with members of Congress and their staffs should be allowed? Should lobbyists confer with members on the floor of the Senate or the House, or should this be done outside in the hallways or some other place?

♦ Congress needs to understand how citizens feel about proposed legislation. Do lobbyists and PACs provide this information? Should they?

♦ Sometimes former members of Congress or former members of the Executive Branch take jobs as lobbyists for foreign corporations or foreign governments. This brings charges of unethical conduct. Should there be a waiting period before a former member of Congress or the Cabinet can work as a lobbyist? Should a former member of Congress ever be allowed to lobby for a foreign government or foreign political party? What about for a foreign corporation or a foreign trade association?

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ethical	conforming to accepted professional standards of fair and honest conduct.
lobbyist	one who works to persuade a legislator either to vote a certain way on a bill or to introduce a bill; one who educates others, particularly office holders, about issues.
mandate	to require.
Political Action Committee (PAC)	a special interest group. Lobbyists and single interest groups are private groups that represent the views of their membership to the public and its authorities. They may be strong enough to direct public authority. Some ally themselves to political parties.

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FEBRUARY

BY ANY MEANS NECESSARY:

X AND MLK

Thank you, Maurice Butler, teacher at Roosevelt High School in Washington D.C., for creating our February lesson in honor of Black History Month. Teachers of your caliber are a joy to watch in action.

*PAD PSC * 1511 K Street, NW * Suite 611 * Washington, DC * 202-638-2898*

"BY ANY MEANS NECESSARY"

The Role and Responsibilities of Citizens to Protect and Extend Rights

I. Lesson Description

1. Students will take and defend a position on the role of private citizens obtaining, preserving and extending constitutional rights.

2. They will develop strategies designed to obtain rights which have been denied or taken away.

3. They will increase their awareness of the struggle to make the constitution apply to all citizens.

II. Objectives

1. Students will identify the barriers that prevent members of our society, especially minority groups, from obtaining the rights enumerated in the constitution.

2. Students will make a comparative analysis of the strategies used by various African-Americans to obtain and extend their rights.

3. Students will develop a plan of action that will help them resolve the problems created by discrimination.

III. Key Concepts and Vocabulary

black nationalism	nonviolent resistance
disenfranchisement	voter registration

IV. Steps

1. Ask students to define the "AMERICAN DREAM." What general rights should all Americans have?

   Answers may include: political involvement, franchise, protection of the law, economic opportunity, social freedom and mobility, etc.

   List some of the groups in America who have at one time or another been denied access to the American Dream. Have students give examples to support their selections

   Answers may include: African-Americans, Native Americans, women, Asian-Americans, Jewish people, Catholics, Irish Americans, gay,

Asian-Americans, Jewish people, Catholics, Irish Americans, gay, lesbian or bisexual people, etc.

Discuss the barriers that prevented each group from obtaining those opportunities or rights associated with achieving the American Dream.

Answers may include: racism, sexism, religion, ethnicity, etc.

Discuss the methods used by different groups designed to help them acquire the American Dream, if in fact they have done so.

2. Distribute Handout #1. Read the handout aloud to the class. Discuss the following:

   - ♦ Which of her constitutional rights were violated?
   - ♦ What methods were used to disenfranchise Ms. Hamer?
   - ♦ What methodology did she use to obtain her rights and the rights of other blacks in Mississippi?

3. Tell the students they will be working in small groups to determine a plan of action to obtain and protect the rights of Mrs. Hamer.

4. Distribute Handout #2. Read it aloud.

5. Have students count off from 1 to 4. All students sharing the same number should assemble in a common area. Each group should select a recorder to take notes about the group's discussion, a reporter to share the group discussion with the class and a group leader to insure all group members have a chance to participate in the group discussion.

6. Groups 1 and 3 must respond to this task as a follower and believer of the philosophy of Malcolm X. Group members should read and discuss Malcolm X Explains Black Nationalism and their action plan to protect Ms. Hamer's rights could include black nationalism and the limited use of violence.

   Groups 2 and 4 must respond to this task as a follower and believer of the philosophy of Martin Luther King. Group members should read and discuss Martin Luther King Explains Nonviolent Resistance and their action plan to protect Ms. Hamer's rights should include activities that reflect his views.

V. General Discussion

1. Ask each group reporter to share the group's discussion highlights.

2. Ask the class to discuss the likely results of the plans that are implemented.

3. Inform students that the African American civil rights struggle more closely followed Martin Luther King's ideas than Malcolm X's. Ask students to discuss how things would have been different if they had not.

VI. Additional Activities

1. Distribute Handout #3 to the class and read it aloud.

2. Have students count off from 1 to 3. All students sharing the same number should assemble in a common area. Each group should select a recorder to take notes about the group's discussion, a reporter to share the group discussion with the class and a group leader to insure all group members have a chance to participate in the group discussion. Each group should follow the instructions assigned to its corresponding group number.

3. After 10 minutes, reassemble the class. Have each reporter share the group discussion highlights with the class.

4. Have students read biographies of Malcolm X and Martin Luther King. Discuss.

5. Discuss the following:

   - Do the plans of action developed by each/any group resolve the problems they have?
   - What constitutional issues would be raised by each plan if this were the U.S.?
   - What rights are violated by the plans, assuming the island now belongs to the U.S.?

VII. Relevant Law

1. First Amendment
2. Fourteenth Amendment
3. 1964 Civil Rights Act
4. Voting Rights Act

HANDOUT #1

MS. FANNIE LOU HAMER REGISTERS TO VOTE IN MISSISSIPPI

"...I will begin from the first beginning, August 31, in 1962. I traveled 26 miles to the county courthouse to try to register to become a first class citizen. I was fired the 31st of August in 1962, from a plantation where I had worked as a timekeeper and a sharecropper for 18 years...

The plantation owner said, 'Fannie Lou, you have been to the courthouse to try to register,' and he said, 'We are not ready for this in Mississippi.'

I said, 'I didn't register for you. I tried to register for myself.' He said, 'We are not going to have this in Mississippi, and you will have to withdraw. I am looking for your answer, yea or nay.'

I just looked. He said, 'I will give you until tomorrow morning....' So I left the same night.

On the 10th of September, they fired into the home of Mr. and Mrs. Robert Tucker 16 times for me. That same night, two girls were shot at Mr. Herman Sissel's [house]. Also they shot [into] Mr. Joe Maglon's house. I was fired that day and haven't had a job since...."

In 1963, Ms. Hamer was arrested and beaten by the state police after returning from a voter registration workshop. "In 1964," she said, "my husband was fired the day after I qualified to run as a Congresswoman."

Reprint in the Congressional Record, June 16, 1964

HANDOUT #2

MALCOLM X EXPLAINS BLACK NATIONALISM

"We declare our rights on this earth to be a man, to be a human being, to be respected as a human being, to be given the rights of a human being in this society, on this earth, on this day, which we intend to bring into existence by any means necessary!

The political philosophy of black nationalism means: we must control the politics and the politicians of our community. They must no longer take orders from outside forces.

Concerning nonviolence: it is criminal to teach a man not to defend himself when he is the constant victim of brutal attacks. It is legal and lawful to own a shotgun and a rifle. We believe in obeying the law.

In areas where our people are constant victims of brutality, and the government seems unable or unwilling to protect them. We should form rifle clubs that can be used to defend our lives and our property in times of emergency.... When our people are being bitten by dogs, they are within their rights to kill those dogs.

We should be peaceful, law-abiding-but the time has come for the American Negro to fight back in self defense whenever and wherever he is being unjustly and unlawfully attacked.

If the government thinks I am wrong for saying this, then let government start doing its job."

Statement by Malcolm X delivered to a New York press conference. 03/12/64.

MARTIN LUTHER KING EXPLAINING NONVIOLENT RESISTANCE

"During the days of the Montgomery bus boycott, I came to see the power of nonviolence more and more. As I lived through the actual experience of this protest, nonviolence became more than a useful method; it became a way of life.

Nonresistance attacks the forces of evil rather than the persons who happened to be doing the evil. As I said to the people in Montgomery: "The tension in this city is not between white people and Negro people. The tension is at bottom, between justice and injustice, between the forces of light and the forces of darkness.... We are out to defeat injustice and not white persons who may be unjust.

It must be emphasized that nonviolent resistance is not for cowards. Nonviolent resistance does resist. If one uses this method because he is afraid or merely because he lacks the weapons of violence, he is not truly nonviolent. That is why Ghandi often said that if cowardice is the only alternative to violence, it is better to fight....

The phrase "passive resistance" often gives the false impression that this is sort of "do--nothing method" in which the resister quietly and passively accepts evil. But nothing is further from the truth. For a while the nonviolent resister is not physically aggressive toward his opponent, his mind and emotions are always active, constantly seeking to persuade his opponent that he is wrong--constantly seeking to open the eyes of blind prejudice.

Nonviolence does not seek to humiliate the opponent, but to win his friendship and understanding. The nonviolent resister not only refuses to shoot his opponent but he also refuses to hate him. To strike back in the same way his opponent would do nothing but increase the existence of hate in the universe. Along the way of life, someone must have sense enough and morality enough to cut off the chain of hate...."

HANDOUT #3

The year is 2015. You and your classmates have been invited by the government of Pango-Pango to participate in a five year exchange program. Pango-Pango in now a U.S. territory governed by the U.S. constitution and is an island country located in the Pacific. During the late 1940's Pango-Pango was exposed to high dosages of radiation and now 95% of the native population have bad vision and must wear eyeglasses.

You and your classmates have fallen in love with this paradise and decide to live and raise your children there. You have noticed, however, that the natives who don't wear glasses are forced to live in poor neighborhoods, go to inferior segregated schools, have low paying jobs and are politically disenfranchised. You have been aware of this for some time but you never actively responded to the situation because you wear glasses and the few classmates who had perfect, 20-20 vision were the ones you could not stand anyway. They were taken away from the group, forced to live on the southern end of the island and their travel visas were taken away from them so they could not leave the island.

The problem now is that your children are of the age where they are ready to go out in the community and they have been cursed with 20-20 vision.

Divide the class into three groups, giving each a separate task.

Group 1: Native Pangoians with 20-20 vision. They have lived on the island for centuries and have no desire to leave. They do, however, long to be included in the mainstream of Pango-Pango society and share the rights of their fellow countrypeople. Develop an action plan that will enable them to gain political power and economic independence.

Group 2: Offspring of the American exchange students with 20-20 vision. They are very upset about the state of affairs and they want their rights now. They want to leave the island but cannot afford to go anywhere and don't have the right to travel. Develop a plan of action that will resolve their problems.

Group 3: Wealthy Native Pangoians with bad vision. The task is to develop a plan of action to keep the people with 20-20 vision in their current status. The Natives with bad vision own the largest factory on the island and need cheap labor.

Key Concepts and Vocabulary

black nationalism	calling for black control of politics and politicians within the black community
disenfranchisement	denial of voting rights or the taking away of the right to vote of a person or a group of persons
nonviolent resistance	refusal to obey certain governmental laws or demands for the purpose of influencing government policy. Nonviolent techniques include boycotting, picketing and nonpayment of taxes. It is embodied in the passive resistance of Thoreau, Ghandi, and Martin Luther King.
voter registration	the process a citizen uses to qualify her or himself for the right to vote

PAD PSC PRESENTS

THE LESSON PLAN OF THE MONTH

MARCH

STOP THE VIOLENCE!

Thank you to Janyne Oberdorfer and Marsha Blakeway of Children's Creative Response to Conflict; Capital Area, Inc. of Arlington, Virginia for creating our March Lesson Plan of the Month. For more information about conflict resolution and anti-violence programs, contact CCFC/FOR, P.O. Box 271, 523 North Broadway, Nyack NY 10960, phone #914-358-4601.

♦*PAD PSC*♦
♦*1511 K Street, NW #611*♦*Washington, DC 20005*♦*202-638-2898*♦

STOP THE VIOLENCE!!!

I. LESSON DESCRIPTION

Students will explore the different kinds of violence that occur in our society. They will try non-violence as an active means to resolve hypothetical conflicts.

II. OBJECTIVES

1. Students will increase their understanding and awareness of the sources and forms of violence.

2. Students will practice creating non-violent alternatives to hypothetical conflict situations.

III. KEY CONCEPTS AND VOCABULARY

assault	battery	homicide	institutional violence	non-violence
rape	structural violence		violence	

IV. STEPS

1. Distribute Handout #1 to students. Have someone read it aloud while everyone follows along. Discuss.

2. Ask students to define violence. Write the following definition on the board and discuss it:
Violence is any activity that prevents someone from developing to his/her full potential as a human being. There are several kinds of violence: physical violence, emotional/psychological violence, institutional/ structural violence.

3. Draw a tree with many branches and roots on the board. Ask students to fill out the "tree" of violence by naming different types of violence. Label a branch of the tree for each type. Next ask students to name the roots of violence and label the roots of the tree.

4. Ask students what they know about non-violence. Write the following definition on the board and discuss it:
Non-violence is a commitment to not act violently toward another or permit violence.

5. Distribute Handout #2. Have students count off from one to five. All students sharing the same number should assemble in the area designated for their group. Once the groups are assembled each group should select a recorder to take notes for the group, a reporter to act as the group spokesperson and a group leader to make sure everyone in the group has an opportunity to speak. Each group should decide how it would respond to the situations described.

V. GENERAL DISCUSSION

Review each hypothetical. Discuss the following:

- What would you do in the situation?
- How did you perceive the situation?
- Did your perception of the situation affect your choice or solution?
- What might happen next if you use your solution?
- What are some of the risks involved in non-violent action?
- What are some of the risks involved in not acting?
- Do you feel competent to confront some kinds of violence in non-violent ways? What kinds?
- What skills would be helpful when taking non-violent action?

VI. ADDITIONAL ACTIVITIES

1. Distribute Handout #3. Review it and discuss with the students the differences between violence and non-violence.

2. Distribute Handout #4. Discuss the quotes from Dr. Martin Luther King, Jr. and Mahatma Gandhi.

3. Have students bring in newspaper and magazine articles on violence. Discuss how the violence depicted could have been avoided.

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Handout # 1 - Violence in America

Violence has become common in the United States of America. Every day we see, hear, or experience some form of violence. Murder, sexual assault, child abuse, injuries from fighting, riots at sporting or entertainment events, and other violent occurrences directly affect many Americans. These acts of violence are uniformly condemned by our society, and we are upset and frustrated by their persistence and frequency.

Although most of this violence is obvious and unacceptable, a good deal of it is subtle and even condoned. Indirectly, we are exposed to violence daily on television, radio, and in the newspapers. Modern technology brings on-the-scene coverage of gun-battles, sniper attacks, riots, and other physical violence directly into our homes from our own cities and towns and from around the world. Movies and television entertain us with realistic and bloody dramatizations of murders, beatings, and tortures. Warlike video games have become a popular part of our culture, and our children routinely watch cartoons that depict violent events.

Surely, the constant exposure to physical violence, some of which we do not even recognize as violent, dulls our natural distaste for this behavior. Violence has become so common that not only do we expect and accept it, but we have begun to view it as appropriate behavior. Frustrated by unemployment, difficult economic times, interpersonal or marital difficulties, racism, and other stresses of modern life, we sometimes respond in a variety of hostile and destructive ways.

If we are to survive as healthy, responsible, and caring people, we must teach ourselves and our children that violence does not solve problems.

As a nation, we must make this task a personal priority. We can reduce the violence. We can change our lives. We can make our world a safer place for our children, our elderly, and ourselves, making it easier for each member of our society to achieve her or his full potential.

Reprinted with permission from The Prevention of Youth Violence, Center for Disease Control, U.S. Department of Health & Human Services, Atlanta, GA, 1993

♦ ♦ ♦

"Over a four month period of 1990, in Detroit, 102 youngsters age sixteen or under were shot, nearly all of them by other children. There was so much violence in the public schools that the whole system had to be shut down for two days. Homicide is now the leading cause of death among children in many American inner cities, and about half the assailants are other youths."

The Atlantic, Facing the '90s, Contemporary Issues, 1991

HANDOUT #2

Directions: 1. Identify the type of violence described.
2. Decide how to respond to the situation non-violently.

♦ ♦ ♦

♦ You see a parent hitting a child in the checkout line at the grocery store. What do you do?

♦ You are at a soccer match. You see the coach berate and humiliate one of your fellow team members. What do you do?

♦ You are in the hall at school. You hear a friend of yours make a prejudicial remark about another student. What do you do?

♦ You are at home and your parents tell you that you cannot bring someone home for dinner because he/she is of a different race. What do you do?

♦ You and a friend are walking past the bus stop and encounter a homeless person. Your friend says aloud: "he should get a job." What do you do?

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HANDOUT # 3 - ALTERNATIVES TO VIOLENCE

by Kathy Bickmore and the
Northeast Ohio Alternative to Violence Committee

Differences Between Violence and Nonviolence

	VIOLENCE	NONVIOLENCE
GOALS:	To defeat opponent to a finish. Must humiliate, injure, corner, and/or destroy opponent.	To solve the problem; to work with the opponent or change her/his understanding to achieve a mutually satisfactory settlement.
ATTITUDES:	Requires a strong hatred and fear of opponent to stimulate the necessary rage to attack and harm.	Requires courage to think and act clearly with self control, and sometimes to be willing to suffer at the hands of the opponent, without retaliation.
PRINCIPLES AND TECHNIQUES	1. Attack so strongly that the opponent has no alternatives or choice.	1.a. Force the assailant into a dilemma such that further pursuit of her/his aims may be a disadvantage. 1.b. Offer many options for both sides to save face and yet reach a solution.
	2. Avoid one's own suffering at all costs and inflict all possible suffering on other.	2.a. Completely reject the use of violence. 2.b. Be willing to suffer but not cause anyone else to suffer. Some pacifists believe that suffering can be a powerful force for social change.
	3. Use all resources to get victory as soon as possible.	3. Use persistence and patience in reaching an equitable solution, acceptable to all concerned. This stems from the pacifists principle of thorough dedication to justice, and the understandng that the lasting change comes slowly.

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PRINCIPLES AND TECHNIQUES (Continued)	4. Use public relations to distort truth where it serves own purposes or to cover own wrongful conduct.	4. Keep conduct and public relations as exemplary and truthful as possible, to create sympathy and understanding by the public and the opponent. Pacifism relies on an unfailing dedication to truth. To accomplish this on a mass scale, nonviolent campaigns involve intensive training.
	5. Act arrogantly to instill hatred and fear.	5. Act with integrity and humbleness to instill respect and sympathy.
	6. Be harmful.	6. Be helpful.
	7. Rely on superior physical resources.	7. Rely on superior, mental, creative and moral resources.
	8. Stimulate hatred toward opponent.	8. Show respect and caring. A famous pacifist principle is, 'love your enemy.'
	9. Ignore or suppress a problem which does violence to others, where possible.	9. Not negative action, but positive action for change, even where difficult or risky.

EFFECTS: WHAT HAPPENS WHEN NONVIOLENCE CONFRONTS VIOLENCE?

In his excellent book, *The Power of Nonviolence,* Richard Gregg calls nonviolence moral jlu-jitsu, meaning that nonviolence throws the violent attacker off balance. When the attacker receives a violent response it gives her/him a certain reassurance and moral support. It shows that the intended victim has the same values, fears, and angers she/he has. She/he can predict the victim's next response, plan for it, and use it to her/his advantage. What if the response is nonviolent? Calm self control is not expected. In the face of blows that are not returned, the intended victim states a belief in truth and justice and asks for an examination of both sides. Resistance is offered but only in nonviolent ways. The acceptance of blows without retaliation proves sincerity. There is no fear or resentment shown. Often, instead, good humor and kindliness is reflected. The endurance of pain is startling. Feelings of curiosity and wonder begin to replace scorn as the aggressor realizes she/he does not face a crowd, but rather the opposite. The attacker is unbalanced and, as Gregg says, falls headlong into a new world of values in which she/he feels ignorant and at a considerable disadvantage.

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Several factors are at work:

1. The aggressor is surprised and no longer fully in control of the situation. The intended victim, on the other hand, has taken the moral initiative.

2. Prolonged anger is exhausting, whereas training, clearness of purpose, and self control preserve the nonviolent defender's energy.

3. The attacker's personality becomes divided as her/his more kindly motives are forced to come into conflict with her/his more selfish, violent motives.

4. The aggressor begins to look bad and becomes apprehensive about the effect of her/his aggressiveness on third parties. These third parties are swayed by the clear nonviolence of the resister(s).

5. This new uncertainty about her/his own values, methods and position make the aggressor suggestible to change. Surprise tends to focus her/his attention on that which surprises her/him. The intended victim thus becomes more able to influence the aggressor than the other way around.

By removing fear, anger, dread of loss, and a sense of separateness and substituting feelings of security, sympathy, respect, and good will, nonviolence can overcome cruelty, greed, pride, and bigotry. Nonviolence, even loving one's enemy, proves to be not just idealistic, but practical.

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HANDOUT # 4 - QUOTES

From: The Words of Dr. Martin Luther King, Jr.
Newmarket Press 1984 - Selected & introduced by
Coretta Scott-King

"Violence as a way of achieving racial justice in both impractical and immoral. It is impractical because it is a descending spiral ending in destruction for all. The old law of an eye for an eye leaves everybody blind. It is immoral because it seeks to humiliate the opponent rather than win his understanding; it seeks to annihilate rather than to convert. Violence is immoral because it thrives on hatred rather than love. It destroys community and makes brotherhood impossible. It leaves society in a monologue rather than a dialogue. Violence ends by defeating itself. It creates bitterness in the survivors and brutality in the destroyers."

"Admittedly, nonviolence in the truest sense is not a strategy that one uses simply because it is expedient at the moment; nonviolence is ultimately a way of life that men live by because of the sheer morality of its claim. But even granting this, the willingness to use nonviolence as a technique is a step forward. For he who goes this far is more likely to adopt nonviolence later as a way of life."

From: The Seeds of Peace
New Society Publishers

"Nonviolence, which is a quality of the heart, cannot come by an appeal to the brain."

"Nonviolence is not a garment to be put on and off at will. Its seat is in the heart, and it must be an inseparable part of our being."

"Nonviolence is a planet of slow growth. It grows imperceptibly, but surely."

Mahatma Gandhi

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KEY CONCEPTS & VOCABULARY

Assault	An international threat, show of force, or movement that could reasonably make a person feel in danger of immediate harmful physical contact. It can be a crime or a tort.
Battery	An international, unconsented-to, physical contact by one person (or an object controlled by that person) with another person.
Homicide	Killing another person.
Institutional Violence	A situation in which someone in society uses his/her institutionalized power to deprive others of their rights or needs, intentionally or unintentionally. This type of violence tends to be tacitly condoned and/or ignored by a sizable segment of our society. Racism is an example of institutionalized violence.
Non-Violence	Commitment to not act violently towards another or permit violence.
Rape	The crime of imposing sexual intercourse by force or otherwise, without legally valid consent. The definition of what precise acts constitute rape, whether a man can be raped and whether a woman can commit rape differs from state to state.
Structural Violence	See institutionalized violence above.
Violence	Any activity that prevents someone from developing to his/her full potential as a human being. Kinds of violence: *physical, emotional/psychological, institutional/structural.*

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The Lesson Plan of the Month

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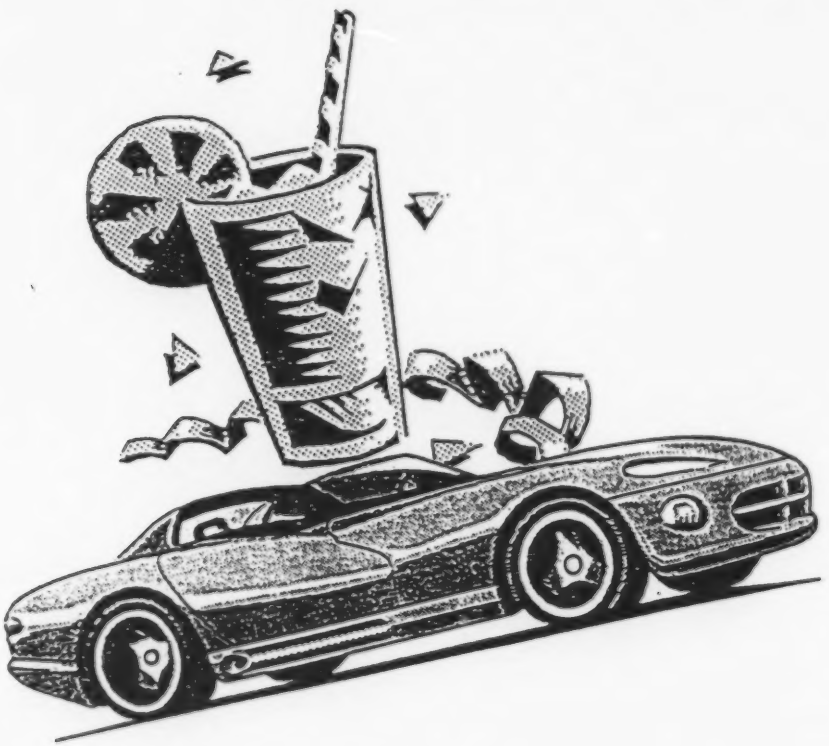

SOBERING THOUGHTS

This month's lesson concerns the dangers of the consumption of drugs, including alcohol. In this time of proms, parties and celebrations, it is particularly important to highlight the dangers of drug use, particularly drinking and driving.

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LESSON NINE: SOBERING THOUGHTS

I. LESSON DESCRIPTION

Students will discuss concerns about prom night by evaluating possible scenarios resulting from the evening's activities. They will react to dilemmas faced by attendees, chaperons, parents and law enforcement officers. Students will then discuss the effectiveness of proposed ways to limit drug/alcohol consumption by adolescents.

II. OBJECTIVES

1. To create a forum for student discussion of the concerns of parents, law enforcement officers, educators and students regarding the use of drugs including alcohol and the operation of motor vehicles.

2. To educate students about proposed/pending state government action to reduce teen consumption of drugs/alcohol and to determine the deterrent effect of the new laws.

III. KEY CONCEPTS & VOCABULARY

blood alcohol content (BAC)	curfew	hypothetical
nighttime driving restrictions	obstruction of justice	

IV. STEPS

1. Review Handout #2 - KEY CONCEPTS AND VOCABULARY, unless this has already been accomplished by the classroom teacher.

2. Ask students when their prom is held. Where is it held? How many people attend? Do students drive? Has there ever been a drug related incident on prom night? Remind students that alcohol is a drug.

3. Distribute Handout #1. Ask someone to read the handout aloud while everyone follows along.

4. Have students count off from one to five. Assemble all students sharing the same number in a common area. Have each group select one student to serve as the group recorder to take notes for the group, one student to serve as the reporter to share the group conclusions with the class, and one student to serve as the group leader to ensure each member of the group has an opportunity to speak during the group discussion period. Each group should resolve each of the questions for all five hypotheticals.

5. Select a group reporter to state the group's conclusions concerning the first hypothetical. Do other groups agree? How do they differ? What are the most

important considerations? Have a similar discussion for the remaining hypotheticals.

V. GENERAL DISCUSSION

1. After each group identifies the most appropriate course of action, have the group act out the course of action in a scene and then explain the pros and cons of the different alternative courses of action and why the one acted out was the most appropriate. The group should write dialogue for each of the characters in their scene.

2. States are concerned about the number of minors using drugs including alcohol in conjunction with operating a motor vehicle. As a consequence some states are considering nighttime curfews on driving for teenagers.

   What do you think? Is this fair? Will it deter driving and drinking? What effect will this law have on teenagers who work at night? What are some of the pros and cons regarding this?

3. Some states are also considering license suspension on the spot for adolescents caught driving with any amount of alcohol in their blood.

   What do you think? Is this fair? Will it deter driving and drinking? What are some of the pros and cons regarding this?

4. Assuming that any teen willing to break the law by drinking is willing to drink and drive, some states are considering license suspension for teenagers involved in any alcohol law violation whether it is related to driving or not.

   What do you think? Is this fair? Will it deter driving and drinking? What are some of the pros and cons regarding this? Is this potential punishment likely to impact the alcohol consumption of teenagers?

VI. ADDITIONAL ACTIVITIES

1. Invite a local law enforcement officer to class to discuss drug and alcohol related traffic accidents in your community.

2. Have students research the status of the state law regarding consumption of alcohol by minors.

3. Have students write letters to local politicians stating their position regarding the night curfew for teenagers, the immediate license suspension for adolescents driving with any amount of alcohol in their blood and/or license suspension for violation of any alcohol law.

4. Have students bring in magazine and newspaper articles concerning alcohol abuse and its consequences.

5. Invite a drug and alcohol counselor or a recovering drug addict/alcoholic to class to discuss substance abuse problems.

VII. RELEVANT LAW

See supplement.

HANDOUT #1 - SOBERING THOUGHTS

Directions: Groups will list alternative ways to respond to hypothetical situations from prom night. They will look at the evening from the perspective of a driver, a passenger, a police officer, a chaperon and a parent. Groups should list alternative ways to respond and the pros and cons of each alternative. Finally, groups should select the most appropriate response for each person.

♦ ♦ ♦ ♦

JT, a senior, invited Shareeq, a junior, to the prom. On the big night after picking Shareeq up, JT stopped at Parkway Liquors for vodka with which to spike the punch. Shareeq, on medication because she had elbow surgery, knows she should not mix medication and alcohol. JT and his friends expect her to join them in the evening of celebration. Shareeq also knows her advisor and friend, Mr. Smith, a prom chaperon is allergic to alcohol. Drinking the punch would put him in danger. Shareeq is faced with the decision to drink or not drink with JT. She is also faced with the decision of whether or not to inform Mr. Smith or another chaperon of the alcohol in the punch. What should she do? Why?

Ms. Wane observes a group of students drinking alcohol at the prom. She does not see Juanita drink, but she appears to be very intoxicated. Juanita's friend, Tanya, worships her and always defers to Juanita on important decisions. It is unclear whether Tanya was drinking. Ms. Wane senses they are preparing to leave, but before she can stop them, Juanita and Tanya leave. Juanita is driving. Ms. Wane is faced with the decision of whether or not to call the police and alert them to Juanita' intoxication and/or call Juanita's and/or Tanya's parents. What should she do? What are her responsibilities as a chaperon/teacher? As a friend to the students? As a citizen? Why?

Mr. & Mrs. Tang are proud of Mike, their first child to graduate high school. On prom night Mike calls to say there has been an auto accident. He hit a tree in a downtown city park about 5 miles from home. Neither he, nor his date are injured, but the car has $900 in body damage. Mike had been drinking wine at the prom. Mr. & Mrs. Tang immediately go to the scene to get the kids. The police have not shown up, it is late and no other cars have gone by. Although accidents must be reported, the Tangs realize reporting this will jeopardize Mike's graduation, will result in Mike being ticketed and possibly arrested for driving under the influence and will cost them money in higher insurance rates. What should they do? Drive off or call the police? Why?

continued next page

Amanda drank some spiked punch at the prom. Her date, Li wanted to impress her, but managed to drink only a few sips of the spiked punch. Amanda drove home despite her apparent intoxication. Li was too shy to demand she not drive. Amanda hit a bridge after taking a curve too fast on a busy street. Fortunately neither Amanda nor Li was hurt, but the car was seriously damaged. Amanda immediately realized she was in a lot of trouble since she wrecked her mom's car and was driving while intoxicated. She panicked. Amanda turned to Li and said, "Switch seats with me. Hurry, before the police get here." Li remembered the punch he drank. He knows Amanda is drunk. He knows his parent's car insurance will skyrocket if he is the person responsible for the wreck. The police are on their way. What should he do? Why?

Police Officer Monroe happens upon the scene of a prom night accident where Martin Walters, Valley High's star athlete, was explaining to his parents that he swerved to avoid a porcupine and drove straight into a tree only four blocks from his home. Despite a damaged car, there were no injuries. The Walters, Martin's parents, although upset with their son's irresponsibility, do not want him arrested. Officer Monroe is the chair of the Booster Club which raises money for the Valley High Football Team. Martin is the football team captain. When the officer asks who was driving, Martin, his date and his father all say, "I was" at the same time. The officer can smell alcohol on Martin. The Walters vow to drive the car straight home. What should Officer Monroe do? Should he arrest Martin? Should he arrest the father and the girlfriend for obstruction of justice? Should he escort them home? Why?

HANDOUT #2 - SOBERING THOUGHTS
KEY CONCEPTS & VOCABULARY

blood alcohol content	grams of alcohol per 100 milliliters of blood, used to determine level of intoxication
curfew	a regulation requiring the withdrawal of specified persons from the street or the closing of business establishments or places of assembly at a stated hour
hypothetical	the process of setting up a set of facts and assuming they are true in order to answer questions about the facts
nighttime driving restrictions	laws that make it illegal for drivers under a certain age to drive at night
obstruction of justice	interfering by words or actions with the proper working of law enforcement, the courts or court officials

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The Lesson Plan of the Month

MAY

A TENSION: THE MILITARY BAN AND EQUAL PROTECTION

It has been a great year. Thanks for your support. Please help guarantee the continuation of this project by signing up for next year's Lesson Plan of the Month. This month's lesson is focused on the issue of gays in the military. Enjoy your summer!

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A TENSION:

The Military Ban and Equal Protection

I. LESSON DESCRIPTION

Students will examine statements from the debate over fully integrating African American soldiers into the Armed Forces and compare the pro and con arguments from the late 1940's with pro and con arguments today concerning Gays and Lesbians in the Armed Forces. Students will examine the current ban in terms of constitutional principles of equal protection verses the policy of the courts to leave military matters to congress and the executive branch. They will look at the evolution of the ban, the cost of investigations and discharges, the policy of allies on the issue, and case law. Finally, they will work in groups to draft pro and con statements on the issue.

II. OBJECTIVES

A. Students will compare the arguments for the exclusion of African Americans from full integration into the Armed Forces with arguments for excluding homosexuals from serving in the Armed Forces.

B. Students will understand the cost of enforcing the ban in monetary and human rights terms.

C. Students will discuss the effect of lifting the ban on troop morale, cohesion and discipline.

D. Students will develop pro and con statements on the ban.

III. KEY CONCEPTS AND VOCABULARY

Directive

Equal protection

Morale

IV. STEPS

A. Distribute the vocabulary concept list to the class. Go over it unless the teacher has accomplished this prior to your visit.

B. Distribute Handout to students. Ask them to fill in the blanks. Inform students of the following:

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1. Quote #2 from Handout 1 is by Wendell L. Willkie, Republican Candidate for President in 1940 and concerns African Americans.

2. Quote #1 from Handout 1 is from a Navy Department memorandum dated December 24, 1941 outlined as the basis for the military's exclusion of African Americans.

Discuss. Inform students that all military recruits are tested for HIV before entering the service. Inform students that one argument against integrating African Americans into the military was that it would spread disease.

C. Distribute Handout 2 to your students. Discuss.

D. Distribute Handout 3 to your students. Discuss.

E. Distribute Handout 4 to your students. Discuss.

F. Divide you class into five groups by counting off from one to five. All students sharing the same number should assemble in a common area. Each group should select a recorder to take notes for the group, a reporter to share the groups discussion with the class and a group leader to ensure all students have an opportunity to participate in the group activities.

Group 1 should be asked to develop a two minute argument for the ban that will be presented in debate.

Group 2 should be told to develop a two minute argument against the ban that will be presented in debate.

Group 3 should be told to write a letter to their Senator in support of the ban.

Group 4 should be told to write a letter to their Senator against the ban.

Group 5 should be told to write a position statement in support of the present compromise position (See Handout 4) which can be summed up as "We don't ask any questions and you don't give any answers".

G. Ask the reporter for group 1 to deliver the two minute statement in favor of the ban. Ask the reporter for group 2 deliver the two minute

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statement against the ban. Ask the reporters for groups 3 and group 4 to read their letters to Senators. Ask the reporter for group 5 to read its policy statement in favor of the present compromise

V. GENERAL DISCUSSION

A. Discuss the tension between American ideals of the law and a government policy of discrimination.

B. What would happen if "other people's prejudice" became the reason why the government allowed discrimination against different groups? How would this impact the disabled, African Americans, Jews, Asian Americans, others?

C. Refer back to the November lesson, "Newly free to Hate" for a historical look at Nazi Germany where official discrimination against a group finally led to genocide against that group and others.

VI. ADDITIONAL ACTIVITIES

A. Have students bring in newspaper and magazine articles about the military ban on homosexuals and bi-sexuals in the military.

B. Contact the Campaign for Military Service, 2027 Massachusetts Ave., NW, Washington, DC 20036, (202) 265-6666, for information on the ban. This group favors lifting the ban.

C. Contact the Defense Readiness Council, 113 South West Street, Suite 200, Alexandria, VA 22314, (703) 683-5004. This group favors keeping the ban.

D. Contact the Education Department, Holocaust Museum, 100 Raoul Wallenberg Place, Washington, DC 20024, (202) 488-0400. This museum documents the dangers of basing laws on hostility by a majority group to a minority.

VII. RELEVANT LAWS (See Handout three)

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HANDOUT ONE

Who Said That?

For the following quotes, fill in the blanks and state who is being quoted:

1. "The close and intimate conditions of life aboard ship, the necessity for the highest possible degree of unity and esprit-de-corp; the requirement of morale - all demand that nothing be done which may adversely affect the situation. Past experience has shown irrefutably that the enlistment of _____ leads to disruptive and undermining conditions".
(What group?)

_____
Who said that?

2. "We pledge that our_____American citizens shall be given a
(What group?)
square deal in the economic and political life of the Nation. Discrimination in the Army and Navy and all other branches of the government must cease".

_____
Who said that?

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HANDOUT TWO

THE COST OF THE EXCLUSIONARY POLICY

In June, 1992, the General Accounting Office (GAO) issued a report analyzing what it cost the government to enforce its ban against gay people in the military. GAO noted that its task was significantly limited by lack of data. Although each investigative branch of the Armed Services investigates people for suspected homosexuality, none of them keeps records of the amount of staff time or related cost spent on such investigations. There are also no separate records for costs such as administrative proceedings, military police investigations, or litigation expenses. Because of these limitations, the GAO report had to focus very narrowly simply on the cost of training and replacing discharged personnel.

According to the GAO, between 1980 and 1990, the military discharged 16,692 enlisted personnel and 226 officers charged with homosexuality. It cost $28,226 to train one enlisted person and $120,772 to train one officer, for a total of $498 million over ten years. As noted, this figure does not include investigative and administrative costs, including out-processing or legal expenses or Reserved Officer's Training Corp (ROTC) costs. These costs would include legal counsel for the defendant and the command investigator or prosecutor, as well as litigation costs for civilian court challenges to the dismissals.

Some investigation costs can be estimated. GAO again reports a repeated problem in gaining reliable and consistent information, noting this figure is likely underestimated. The three agencies from which the figures are derived are Army Criminal Investigations (CIS), Navy Investigative Service (NIS) and Air Force Office of Special Investigations. Using figures for 1990, costs for investigation alone totalled over $2.5 million.

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HANDOUT THREE

Amendment XIV.
U.S. Constitution

Section 1. All persons born or naturalized in the United States and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

In the last five years, three Court of Appeals cases and two District Court cases have considered the constitutionality of the military policy banning lesbians, gay men, and bisexuals from the military.

Ben-Shalom v. Marsh, 881 F.2d 454 (7th Cir. 1989), Woodward v. United States, 871 F.2d 1068 (Fed Cir. 1989), and Steffan v. Cheney 780 F.Supp. 1 (D.D.C.1991)(currently on appeal) have upheld the constitutionality of the military's policy. Pruitt v. Cheney, 963 F.2d 1160 (9th Cir. 1992) ruled that there must be a real basis for the military's policy other than mere prejudice of others and remanded the case to the district court. Meinhold v. U.S. Dept of Defense, 808 F.Supp 1455 (C.D.Ca 1993), following the rationale of Pruitt, found there was no rational basis for the military's policy and held it was unconstitutional.

CASES FINDING THE BAN CONSTITUTIONAL

In the cases of Ben-Shalom, Woodward, and Steffan, the plaintiffs argued that the military's ban violated their federal constitutional right of equal protection. In each case, the courts focused primarily on the military's claim that the ban preserved good order and morale. Finding that order and morale were important to an effective service, the courts accepted the military's claim that the ban was necessary to achieve good order and morale. None of these courts sought from the military a description of how lifting the ban would impair order and morale, nor did the courts require the government to provide any concrete evidence for its claims.

CASES QUESTIONING THE CONSTITUTIONALITY OF THE BAN

In Pruitt v. Cheney, the Ninth Circuit ruled that the appellate courts in Ben-Shalom

HANDOUT THREE CONTINUED

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and Woodward had failed to adequately apply recent Supreme Court cases in their decisions.

It had long been the law that the government could not discriminate against a group of citizens just because of other peoples' hostility to the group. U.S. Dept of Agriculture v. Moreno, 413 U.S. 528 (1973). In Palmore v. Sidoti, 466 U.S. 429 (1984), the Supreme Court expanded on that point by ruling that a state court could not take custody of a child away from a white mother because she was living with a black man. The court ruled that constitutional equal protection prohibited the government from giving effect to private prejudices of others by discriminating against the woman.

Cleburne v. Cleburne Living Center, 473 U.S. 432 (1985), the court said that Palmore was not limited to race or other "suspect" classifications. Ruling that a Texas town could not zone out a group home for the mentally disabled in a residential neighborhood, the court said that the fears of neighbors, and even belief that some individuals might harass those living at the home, were not permissible bases for discriminating against an unpopular group.

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HANDOUT FOUR

The Department of Defense (DOD) excludes all gay men, lesbians and bisexual people from serving in the armed forces. DOD Directive 1332.14 states flatly: "Homosexuality is incompatible with military service." Since 1982, the military has discharged people who state they are gay; who engage in private, consensual gay conduct; who state a desire to engage in gay conduct; or who are found out to be gay accidentally or through an investigation.

The military's policy was changed in 1982 and in contrast to previous policies, mandated discharge for gay servicemembers. For the first time, the new policy targeted status rather than conduct. People who state they are gay, people who engage in private gay conduct, and people who simply state they desire to engage gay conduct are all subject of mandatory discharges. By contrast, military personnel who are found to have engaged in homosexual behavior, but who deny they are gay, can be retained if they argue convincingly that their gay behavior was an isolated event.

THE MILITARY'S POLICY UNDER THE CURRENT COMPROMISE

Under the compromise provision, the military's policy is essentially the same as before. The only two changes are:

1) applicants are no longer asked if they are gay, and

2) servicemembers who say they are gay continue to be processed through the discharge system, but may ultimately have that discharge suspended and be placed in "standby reserve." Servicemembers who acknowledge they have engaged in gay conduct are still subject to full discharge.

THE POLICY OF OTHER COUNTRIES

Canada, Australia, Belgium, Denmark, France, Spain, Norway, Italy, Israel,and the Netherlands have no such ban.

Libya, South Africa, Iran, Serbia, Ireland and New Zealand have bans on homosexual service.

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VOCABULARY CONCEPT LIST

Directive:	An authoritative instruction. An order issued by a person in authority such as a bishop or president.
Equal Protection:	Requirement of the Fourteenth Amendment to the U.S. Constitution that the government not set up illegal categories to justify treating persons unfairly; or to give unfair or unequal treatment to a person based on race, religion, gender, etc.
Morale:	Mental condition of confidence, zeal and cheerfulness.

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